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Report of the International Tribunal for the Prosecution of Persons Responsible for Serious Violations of International Humanitarian Law Committed in the Territory of the Former Yugoslavia since 1991

SECURITY COUNCIL
Fifty-third year

Note by the Secretary-General

The Secretary-General has the honour to transmit to the members of the General Assembly and to the members of the Security Council the fifth annual report of the International Tribunal for the Prosecution of Persons Responsible for Serious Violations of International Humanitarian Law Committed in the Territory of the Former Yugoslavia since 1991, submitted by the President of the International Tribunal in accordance with article 34 of its statute (see S/25704 and Corr.1, annex) which states:

> "The President of the International Tribunal shall submit an annual report of the International Tribunal to the Security Council and to the General Assembly."

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LETTER OF TRANSMITTAL

7 August 1998

Your Excellencies,

I have the honour to submit the fifth annual report of the International Tribunal for the Prosecution of Persons Responsible for Serious Violations of International Humanitarian Law Committed in the Territory of the Former Yugoslavia since 1991, dated 27 July 1998, to the Security Council and the General Assembly, pursuant to article 34 of the statute of the Tribunal.

Please accept, Excellencies, the renewed assurances of my highest consideration.

(Signed) Gabrielle Kirk McDONALD
President

President of the General Assembly
United Nations
New York, N.Y. 10017
United States of America

President of the Security Council
United Nations
New York, N.Y. 10017
United States of America

FIFTH ANNUAL REPORT OF THE INTERNATIONAL TRIBUNAL FOR THE PROSECUTION OF PERSONS RESPONSIBLE FOR SERIOUS VIOLATIONS OF INTERNATIONAL HUMANITARIAN LAW COMMITTED IN THE TERRITORY OF THE FORMER YUGOSLAVIA SINCE 1991

SUMMARY

The fifth annual report of the International Criminal Tribunal for the Former Yugoslavia covers the activities of the Tribunal during the period from 1 August 1997 to 27 July 1998. In detailing developments during that period, the report records the significant progress made by the Tribunal in acquiring the resources, the facilities and the cooperative arrangements with States and international and multinational bodies necessary to fulfil its mandate. During the last year, the number of accused in custody has more than tripled, trial activity has increased dramatically and the Office of the Prosecutor has initiated an investigation into events in Kosovo and continued an energetic programme in other areas of the former Yugoslavia.

Nineteen accused have been arrested or surrendered during the reporting period. The Tribunal now has in custody 27 indicted persons in its Detention Unit and one who has been provisionally released. These arrests and surrenders have acted as the catalyst for considerable growth of the Tribunal as an institution. This development has affected each organ of the Tribunal: Chambers, the Office of the Prosecutor and the Registry. Such expansion of the judicial and prosecutorial activities of the Tribunal has been accompanied by a corresponding growth in its administrative infrastructure necessary to support this expansion. The number of staff has increased to 511, with the overall number of approved posts totalling 646. The budget of the Tribunal now totals US$ 62,331,600 net.

The resources of Chambers have been strengthened by the construction of two additional courtrooms and by the Security Council's approval of a request for three additional judges. Amendments to the Rules of Procedure and Evidence have put in place a variety of new mechanisms, such as the pre-trial judge and pre-trial conferences, and adjusted existing mechanisms, to enhance Chambers' ability to accommodate the large number of accused on trial.

The Trial Chambers have been engaged in an unprecedented amount of trial, pre-trial and sentencing activity. At the close of the reporting period, there were 13 cases at trial, pre-trial and appeal, with a further 2 cases having been closed during the year. Trials in the Celebici, Blaskic, Aleksovski, and Kovacevic cases are currently being heard. Argument was completed in the Dokmanovic and Furundzija cases, with the parties awaiting judgement. However, following the death of the accused the former case was terminated, while in the latter, the trial is to be reopened to hear argument on additional evidence. In the Erdemovic case, the accused's initial plea of guilty to a crime against humanity was invalidated by the Appeals Chamber on the ground that it had not been informed and the case was referred back to a Trial Chamber to allow the accused to replead. Before the Trial Chamber, the

accused pleaded guilty to a violation of the laws or customs of war and was sentenced to five years' imprisonment. The case is now closed. The remaining seven cases (Kupreskic and Others, Kordic/Cerkez, Jelisic, Simic, Kunarac, Krnojelac and Kvocka/Radic/Zigic/Kos) are in various stages of pre-trial preparation, with the Kupreskic trial scheduled to commence on 17 August 1998.

The Appeals Chamber remains seized of the appeal in the Tadic case, with the Defence requesting the assistance of the Chamber in seeking access to evidence that was allegedly unavailable at trial. In the Erdemovic case, the Appeals Chamber established the preconditions for the acceptance of a guilty plea and, by majority, found that duress cannot afford a complete defence under international law to a soldier charged with the killing of innocent persons. In addition to entertaining numerous applications for appeal against interlocutory decisions of the Trial Chambers, the Appeals Chamber heard a request from the Republic of Croatia for review of the decision of Trial Chamber II upholding the issuance of subpoenae duces tecum in the Blaskic case. The Chamber pronounced upon the power of the Tribunal to issue subpoenas and binding orders generally and, in particular, to States, state officials and individuals.

The Office of the Prosecutor has continued with its dual roles of investigating violations of international humanitarian law and of prosecuting cases of such violations in court. The arrival of 19 new accused to the Tribunal's custody, however, had seen the balance of the Prosecutor's limited human resources shifted away from investigative activities and applied towards assisting pre-trial preparations of the new cases. Increased budgetary resources, however, have enabled the Office of the Prosecutor to resume previous high levels of investigative activity. Such activity has encompassed successful exhumation programmes for both 1997 and 1998, and has recently been extended by the Security Council to cover the conflict in Kosovo. In addition, the Office of the Prosecutor has, during the reporting period, obtained search warrants authorizing the seizure of large volumes of documentary evidence, opened a liaison office in Banja Luka, developed and put into operation information retrieval systems, conducted sexual assault workshops and contributed to the initiative to establish a permanent international criminal court.

The Registry of the Tribunal, with its Judicial Department and Administrative Department, has provided support to the expansion of the Tribunal's judicial and prosecutorial activities. The Judicial Department has responded to the increased workload of the Tribunal during the reporting period by expanding, fine-tuning and developing procedures of court management necessary to operate three courtrooms on a full-time basis, administering a legal aid system of assigning defence counsel to indigent accused, supervising the Detention Unit and maintaining diplomatic relations with States. The Administrative Department has, similarly, overseen the growth of the infrastructure of the Tribunal, including the construction of two new courtrooms and the expansion of the Tribunal into additional building space.

The Tribunal has benefited from increasing cooperation and compliance, both from States and from international and multinational bodies. Most significantly, a number of States have begun proactively to support the Tribunal, both directly through increased logistical and financial assistance, and indirectly through the implementation of the General Framework Agreement for Peace in Bosnia and Herzegovina. Surrenders of indicted individuals from the territory of the Republic of Croatia and the Republika Srpska are the most visible sign of increased cooperation from the States and entities of the former Yugoslavia. Of particular note is the change in attitude of the Republika Srpska, which in previous reporting periods was unrestrained in its intransigence towards the Tribunal. The reporting period has witnessed the beginning of what, it is hoped, is a willingness to work with the Tribunal for the benefit of all of the people of the former Yugoslavia. However, much remains to be done by the States and entities of the former Yugoslavia. Compliance must be strengthened. The progress seen to date in this regard must be sustained and enhanced before a genuine assessment of the level of cooperation is possible.

Further, relationships forged with the Office of the High Representative and the Stabilization Force have proven productive and effective in ensuring cooperation and execution of orders and arrest warrants issued by the Tribunal. The fruits of this labour have been felt by the Tribunal and by international criminal law in general, as demonstrated by an increasing awareness and discussion of the Tribunal and the principles underpinning it and, most importantly, the signing of the Rome Statute of The International Criminal Court at the close of the reporting period. The latter event in particular vindicates the ideals that led to the establishment of the Tribunal and, it is hoped, portends their achievement.

The events and developments of the past year have resulted in a fully fledged international criminal judicial institution with the infrastructure, prosecutorial, judicial and administrative mechanisms required by its mandate. Yet, it is only a preparation for what has yet to come if the Tribunal is to meet the expectations of its founders, and more importantly, of the victims of the conflict in the former Yugoslavia. Thirty-one indictees remain at liberty, the great majority of whom are believed to be on the territory of the Republika Srpska or the Federal Republic of Yugoslavia. In addition to its refusal to cooperate in the arrest and surrender of indictees, the Federal Republic of Yugoslavia continues to demonstrate its disregard for those characteristics that are an essential part of mature States in today's international order. It flouts its obligations to provide or allow access to evidence under its control and continues to cite national legislation as a bar to compliance with international law that requires the transfer of indicted persons, both its nationals and non-nationals, to the custody of the Tribunal. Moreover, other States continue to ignore their legal responsibility to bring their domestic laws into conformity with their obligations towards the Tribunal, as required by Security Council resolution 827 (1993).

If the Tribunal is to be successful and is to contribute to the maintenance of international peace and security, both generally and in the former Yugoslavia, more States - individually and through international organizations - must provide assistance, both that which is obligatory, and perhaps more critically, that which is necessary. For it is only through a genuine will - to ensure that the rule of law will prevail - on the part of the international community that the Tribunal can achieve its mandate. Without this support, the Tribunal's achievements, however meaningful, will not realize their potential: to found a more just international order in which right is accorded primacy over might.

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I. INTRODUCTION

1. The present annual report of the International Tribunal for the Prosecution of Persons Responsible for Serious Violations of International Humanitarian Law Committed in the Territory of the Former Yugoslavia since 1991, its fifth, covers the period from 1 August 1997 to 27 July 1998, ("the reporting period") and describes in detail the Tribunal's activities during that period.

2. The reporting period is most visibly characterised by the arrival into the custody of the Tribunal of nineteen new accused persons who have either been arrested or had surrendered voluntarily. The increase in the number of accused either in trial or awaiting trial from nine to twenty-eight, was made possible by a commitment among the international community that the Tribunal cannot be allowed to fail. This commitment - in terms of the success of the Tribunal specifically and the need to bring perpetrators of crimes against international humanitarian law to justice in general - is manifest in the approval by Member States of the expansion of the Tribunal's budgetary and human resources. It is also manifest in the affirmation by the Security Council in resolution 1160 (1998) of the mandate of the Prosecutor to investigate events in Kosovo which may fall under the Tribunal's jurisdiction, in the international initiative to establish a permanent international criminal court, and in the cooperation of Member States and organizations with the Tribunal, including numerous generous cash and in-kind donations.

3. The arrests and surrenders have resulted in considerable expansion of the judicial and prosecutorial activities of the Tribunal and a corresponding growth in its administrative infrastructure. The election of three additional judges has been approved by the Security Council. Two additional courtrooms have been constructed owing to generous donations from Canada, the Netherlands, the United Kingdom and the United States. The number of staff has increased from 368 to 511, with the overall number of approved posts totalling 646. The Tribunal has moved into additional office space in its building which became available in the course of 1997. The budget of the Tribunal has been increased by US$13,744,600 and now totals $62,331,600 net. The Office of the Prosecutor is continuing with its programme of new investigations, including exhumation projects in the territory of the Former Yugoslavia, while simultaneously prosecuting those accused already in custody in court proceedings. Each of the Tribunal's departments has reported expansion in its infrastructure and the implementation of new programmes and establishment of new facilities.

4. However, thirty-one accused remain at liberty. If transferred to the Tribunal, the number of trials will increase to twenty-three. This figure excludes the real possibility of severance based on motions for separate trials, which would greatly increase the number of trials required. The trials of persons charged with serious violations of international humanitarian law are necessarily more complex than those involving ordinary crimes and thus necessarily take longer than domestic trials. Since the Tribunal is the first truly international criminal court established, it has little precedent to guide the parties and Judges in the application of the law of grave breaches of the Geneva Conventions, violations of the laws or customs of war, crimes against humanity, and genocide. The trials necessarily require the testimony of many witnesses and the receipt of substantial quantities of documentary evidence. As a consequence, the drafting of final Judgements demands extensive deliberation. Thus, the Tribunal has a sufficiently full docket to ensure the completion of a second four-year judicial term.

5. The events and developments of the past year indicate that the Tribunal has overcome many of the difficulties inherent in its establishment. Relationships that have been forged with international and multinational bodies to ensure cooperation and compliance with orders and arrest warrants issued by the Tribunal are beginning to bear fruit through

productive and effective activity. The Tribunal has become a fully-fledged and complete international criminal judicial institution, with the infrastructure, prosecutorial, judicial and administrative procedures necessary to the fulfilment of its mandate as contained in Security Council resolution 827 (1993) of 25 May 1993. This mandate is to prosecute persons responsible for serious violations of international humanitarian law committed in the territory of the Former Yugoslavia since 1991 with a view that such violations are halted and effectively redressed, that an end be put to such crimes, that their perpetrators be brought to justice and that peace be restored and maintained.

6. The Tribunal has, therefore, virtually completed the development of its capacity to achieve the objectives for which it was established. Thus equipped, the Tribunal cannot and will not founder of its own accord: if the Tribunal is not allowed to function effectively, it will not have failed. It will have been failed by the States that created it and on whom it relies for its effectiveness, and the international community will have forsaken its commitment to the rule of law. Efforts must now be directed towards ensuring that this does not happen.

Part One

MAIN ACTIVITIES OF THE TRIBUNAL TO DATE

II. THE CHAMBERS

A. Composition of the Chambers

7. The new Judges, who were elected on 20 May 1997, have assumed office and have been fully involved in the operations of Chambers. With the exception of Judge Shahabuddeen, the new Judges assumed office on 17 November 1997. Judge Shahabuddeen assumed office on 16 June 1997.

8. The composition of Chambers is now as follows: Judge Antonio Cassese (Italy), Judge Claude Jorda (France), Judge Gabrielle Kirk McDonald (United States of America), Judge Richard George May (United Kingdom), Judge Florence Ndepele Mwachande Mumba (Zambia), Judge Rafael Nieto-Navia (Colombia), Judge Fouad Abdel-Moneim Riad (Egypt), Judge Almiro Simões Rodrigues (Portugal), Judge Mohamed Shahabuddeen (Guyana), Judge Lal Chand Vohrah (Malaysia), and Judge Wang Tieya (China).

9. Judge Haopei Li (China) passed away on 6 November 1997, at the Red Cross Hospital in The Hague, The Netherlands. The news of his death was received by the Tribunal with great sadness. Elected in 1993 as one of the first eleven Judges of the Tribunal, Judge Li was a member of the Appeals Chamber.

10. In addition, Judge Aldolphus Karibi-Whyte, Judge Elizabeth Odio-Benito and Judge Saad Jan have had their terms of service extended by Security Council resolution 1126 of 27 August 1997, until the completion of the Celebici case which is expected before the end of November 1998.

B. Judicial Activity

11. The Judicial activity of the Chambers of the Tribunal may be organised into three categories: trials, judicial orders, and regulatory activity.

1. The Trials

12. There are, at the time of preparation of this annual report, thirteen cases in the trial or pre-trial stage. Four cases are currently in trial: Celebici[1], Blaskic[2], Aleksovski[3], and Kovacevic[4]. Argument in one case, Furundzija[5], has been completed and the parties are awaiting judgement. The following eight cases are in various stages of pre-trial preparation: Kupreskic and Others[6]; Kordic and Cerkez[7]; the Bosanski Samac case (Simic and Others)[8]; Jelisic[9]; the Omarska case (Kvocka, Radic, Zigic and Kos)[10]; the Keraterm case (Zigic)[11]; Kunarac[12]; and Knorjelac[13].

13. Four further cases bear mentioning. Firstly, the Tadic[14] case is presently on appeal before the Appeals Chamber. Secondly, the Erdemovic[15] case was completed in March 1998, with the sentencing of the accused. Thirdly, the Dokmanovic[16] case was discontinued prior to the entry of judgement in June 1998, due to the death of the accused. Finally, there is one interlocutory appeal pending in the Blaskic case.

(a) The Celebici trial

14. The joint trial of Zejnil Delalic, Zdravko Mucic, Hazim Delic and Esad Landzo for various offences allegedly committed at the Celebici camp in central Bosnia in 1992, commenced on 10 March 1997. Witness testimony as well as documentary and video evidence has been heard and submitted to Trial Chamber II quater (Judge Karibi-Whyte, presiding, Judge Odio-Benito and Judge Jan) in relation to the charges of, inter alia, killing, torture, sexual assault, inhumane conditions and unlawful confinement of civilians.

15. The evidence heard by the Trial Chamber has consisted of substantial direct testimony of fact from witnesses who were themselves detained in the Celebici camp, as well as those who worked there. In addition, significant time has been spent hearing the evidence of military personnel who were active in the relevant area in 1992 and who were familiar with the structures of command and control which were operating at the relevant time. The Trial Chamber has also had the benefit of expert military, political and historical testimony and reports.

16. Some witnesses, who were reluctant to appear before the Trial Chamber, have been granted measures of protection so that their identity as witnesses was not made known to the media and public. Orders for safe conduct, guaranteeing some defence witnesses immunity from arrest and prosecution by the Tribunal during their stay in The Hague and

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1 Prosecutor v. Delalic and Others (IT-96-21-T) with four accused: Delalic, Mucic, Delic and Landzo.
2 Prosecutor v. Blaskic (IT-95-14-T) with one accused: Blaskic.
3 Prosecutor v. Zlatko Aleksovski (IT-95-14/1-T) with one accused: Aleksovski.
4 Prosecutor v. Milan Kovacevic (IT-97-24-T) with one accused: Kovacevic.
5 Prosecutor v. Anto Furundzija (IT-95-1/1-T) with one accused: Furundzija.
6 Prosecutor v. Kupreskic and Others (IT-95-16-PT) with six accused: Kupreskic Z, Kupreskic M, Josipovic, Papic, Santic, Kupreskic V.
7 Prosecutor v. Kordic and Others (IT-95-14/2-PT) with two accused: Kordic and Cerkez.
8 Prosecutor v. Simic and Others (IT-95-9-PT) with three accused: Simic, Tadic and Zaric.
9 Prosecutor v. Goran Jelisic, (IT-95-10-PT) with one accused: Jelisic.
10 Prosecutor v. Meakic and Others (IT-95-4-PT) with four accused: Kvocka, Radic, Zigic and Kos.
11 Prosecutor v. Sikirica and Others (IT-95-8-PT) with one accused: Zigic.
12 Prosecutor v. Dragoljub Kunarac (IT-96-23-PT) with one accused: Kunarac.
13 Prosecutor v. Milorad Krnojelac (IT-97-25-PT) with one accused: Krnojelac.
14 Prosecutor v. Tadic (IT-94-1-A) with one convicted person: Tadic.
15 Prosecutor v. Drazen Erdemovic (IT-96-22) is closed.
16 Prosecutor v. Slavko Dokmanovic (IT-95-13a) is closed.

while in transit, have also been granted upon request and a proper showing. The Trial Chamber has further issued several subpoenas to witnesses who were unwilling to appear to give testimony and who were deemed necessary to the proper adjudication of the case.

17. In addition, the Trial Chamber has issued decisions and orders on the numerous motions filed by both the Prosecution and the Defence. Constraints of space do not here permit a full discussion of these motions and decisions and, thus, only a few are mentioned in order to illustrate some of the issues which the Trial Chamber has considered.

18. On 2 September 1997, the Trial Chamber ruled that statements made by the accused Zdravko Mucic to Prosecution investigators in March 1996 were admissible as evidence against him, while those made to officers of the Austrian Police Force must be excluded. In rendering its written decision, the Trial Chamber found that the accused had fully understood and waived his right to legal counsel during the March interviews and that the interviews had not been in any way oppressive. Similarly, on 25 September 1997, the Trial Chamber issued a decision admitting into evidence statements made by the accused Zejnil Delalic to Prosecution investigators.

19. On 16 January 1998, the Trial Chamber granted leave to the Prosecution to withdraw two counts of the Indictment, thus reducing the total number of counts to 45. On 19 January 1998, a written decision was rendered on the admission of several documents and videotapes into evidence. The Trial Chamber considered that the evidence in question demonstrated sufficient relevance and probative value to be admitted pursuant to Rule 89(C) of the Rules of Procedure and Evidence. The Trial Chamber further admitted five Prosecution exhibits, on 9 February 1998, relating to a search on the property of Mr. Mucic in Vienna following similar reasoning. On 4 February 1998, with the close of the Prosecution case imminent, the Trial Chamber ordered the Defence for all four accused to provide the Prosecution with the names of the witnesses whom they intended to call at trial, at least seven days prior to the testimony of each witness. The Trial Chamber has issued subsequent orders relating to the disclosure of defence witness lists to the Prosecution and co-accused in order to ensure the fair and expeditious conduct of the trial.

20. At the close of the Prosecution case, on 16 February 1998, the Defence for all four accused filed a Motion for Judgement of Acquittal, or in the alternative, a Motion to Dismiss the Indictment. After considering it along with the Response filed by the Prosecution and hearing oral argument, the Trial Chamber rejected the Motion in relation to each of the counts of the Indictment and appended its reasoning in a written decision dated 30 March 1998. The Defence commenced the presentation of its case on 30 March 1998.

21. Each of the accused is leading its defence case in turn, calling numerous witnesses in response to the charges against them. The defences being raised include that of alibi and diminished responsibility. The Trial Chamber has sought to expedite the proceedings by directing the Defence to avoid calling unnecessarily repetitive witnesses. The Defence for Zejnil Delalic filed a Motion on 2 June 1998, requesting the Trial Chamber to make its findings on his guilt or innocence prior to proceeding with the Defence cases of the other accused persons. On 1 July 1998, the Trial Chamber issued its written decision rejecting the Motion, considering it to be in the nature of a renewed request for a separate trial for Mr. Delalic, a request which had been considered and denied prior to trial. Thus, the case for the Defence continues and is expected to close in August, whereupon final submissions will be heard.

(b) The Erdemovic case

(i) Background

22. On 7 October 1997, the Appeals Chamber delivered its judgement on the appeal by Drazen Erdemovic against the sentence of 10 years imprisonment pronounced on 29 November 1996 by Trial Chamber I. Erdemovic had pleaded guilty to one count of a crime against humanity for his participation in the execution of approximately 1,200 unarmed civilian Muslim men and boys in the Zvornik municipality of eastern Bosnia.

(ii) The appeal

23. A majority of the Appeals Chamber found that the initial guilty plea entered by Erdemovic was not informed and that the case should be remitted to a new Trial Chamber so that the accused could be afforded the opportunity to replead. While it was determined that the plea was voluntary, the majority concluded that the accused did not understand the distinction between the alternative charges of war crimes and crimes against humanity and that the latter was a more serious offence and entailed a heavier penalty.

24. By a majority of three to two (Judge McDonald, Judge Vohrah and Judge Li, with Judge Cassese and Judge Stephen dissenting) the Appeals Chamber also found that duress cannot afford a complete defence to a soldier charged with crimes against humanity or war crimes in international law involving the taking of innocent lives. Duress, however, may constitute a mitigating factor in the determination of sentence.

(iii) Re-plea hearing and sentencing

25. On 14 January 1998, Erdemovic appeared before a new Trial Chamber (Judge Mumba, presiding, Judge Shahabuddeen and Judge Wang) and pleaded guilty to violations of the laws or customs of war. On 5 March 1998, the Trial Chamber sentenced Erdemovic to five years imprisonment from which was to be deducted the time he had already spent in the custody of the Tribunal. The Trial Chamber found that the magnitude of the crime and the accused's role in it were aggravating circumstances in the determination of the sentence. It also concluded that various mitigating factors were present including Erdemovic's personal circumstances, his admission of guilt, remorse, cooperation with the Prosecutor and the existence of duress. The Registry is currently facilitating the transfer of Erdemovic to a designated country where he will serve his term of imprisonment.

(c) The Tadic appeal

26. The Defence had appealed against both the judgement of Trial Chamber II (Judge McDonald, presiding, Judge Stephen and Judge Vohrah) of 7 May 1997, which found Dusko Tadic guilty of crimes against humanity and violations of the laws and customs of war, and the sentencing judgement of 14 July 1997, which imposed a number of concurrent sentences, the maximum being 20 years for a crime against humanity (persecution). The Prosecution had also appealed against the judgement of 7 May 1997.

27. The Appeals Chamber, consisting of Judge Shahabuddeen, presiding, Judge Cassese, Judge Wang, Judge Nieto-Navia and Judge Mumba, heard oral argument from the parties on 22 January 1998, on the admission of additional evidence under Rule 115. The Appeals Chamber suspended the normal timetable for appellate proceedings pending resolution of this issue. It then ordered the Defence to present a legal brief concerning the evidence it sought to admit and invited the Prosecution to respond. Following various applications of the parties for extensions of time, the filing of submissions and material regarding the

issue of additional evidence under Rule 115 was completed on 25 June 1998. Appellate proceedings will resume when the Appeal Chamber renders its decision on the matter of additional evidence.

28. In addition, Republika Srpska was required by way of a binding order issued at the request of the Defence on 2 February 1998, to reveal the whereabouts of specified potential witnesses by 2 March and to facilitate their being interviewed without restriction or interference. The binding order also required that the Republika Srpska allow Defence counsel access to, and, where requested, provide them with copies of specified documents.

(d) The "Lasva River Valley" trials

29. The alleged "ethnic cleansing" of the Bosnian Muslim population of the Lasva river valley region in central Bosnia and Herzegovina from May 1992 to May 1993, forms the background to four separate indictments: "Kordic and Others", "Blaskic", "Kupreskic and Others" and "Furundzija".

(i) Kordic and Others

a. The Aleksovski trial

30. Zlatko Aleksovski was charged on 10 November 1995, under the Kordic and Others indictment with two counts of grave breaches of the 1949 Geneva Conventions and one count of violations of the laws or customs of war for the unlawful treatment of Bosnian Muslim detainees in his capacity as commander of the detention facility at Kaonik.

31. The accused was arrested by the Croatian authorities in Split on 8 June 1996 and transferred to the custody of the Tribunal in early 1997. He pleaded not guilty during his initial appearance on 29 April 1997. On 25 September 1997, Trial Chamber I (Judge Jorda, presiding, Judge Riad and Judge Shahabuddeen) granted the motion of the accused for the separation of his trial from that of the other accused under the Kordic and Others indictment. The trial, therefore, of the accused commenced on 6 January 1998, before Trial Chamber I bis (Judge Rodrigues, presiding, Judge Vohrah and Judge Nieto-Navia).

32. In a decision dated 23 January 1998, the Trial Chamber rejected the accused's motion for provisional release, finding, however, that an accused is not prevented from presenting a motion for provisional release after the trial had commenced.

33. For the organization of the hearings, the Trial Chamber took into account the medical condition of the accused, which would not allow him to attend the trial both in the morning and in the afternoon. The Prosecution concluded its case in early May 1998. The Defence commenced its case on 20 May 1998, and, following the June session, requested that there be no sitting days until August. It is expected that the Defense close its case by the end of August or beginning of September 1998.

b. The Kordic and Cerkez trial

34. Dario Kordic and Mario Cerkez voluntarily surrendered to the custody of the Tribunal on 6 October 1997, and entered pleas of not guilty on 8 October 1997. Following a number of Defence motions challenging the form and content of the indictment, the Prosecutor sought leave to amend the indictment on 11 February 1998, without directly responding to the Defence's motions. The resolution of this issue was suspended in light of a motion of the Defence, dated 20 February 1998, requesting that Judge Jorda and Judge Riad recuse themselves because of their involvement in the Blaskic case and the risk of undue delay.

35. The Bureau of the Tribunal was requested to consider this matter by the presiding Judge of Trial Chamber I. The Bureau decided that "Judges Jorda and Riad are not precluded by Sub-rule 15(A) from participating in the hearing of the case" and referred the resolution of the issue of undue delay to Trial Chamber I. On 21 May 1998, the Trial Chamber decided that the Defence motion was without merit. It was on this date that the Defence for Dario Kordic and Mario Cerkez filed a new motion asking that Judges Jorda and Riad recuse themselves from the case. This motion was also rejected by the Trial Chamber.

36. The Trial Chamber has subsequently sought clarification from the Prosecution in relation to its motion for leave to amend the indictment and is expected to rule on the issue by the end of July 1998. In addition, the Defence filed a motion "to compel compliance by the Prosecutor with Rules 66(A) and 68" on 2 July 1998. Resolution of this motion remains pending.

(ii) The Blaskic trial

37. The Blaskic trial commenced on 24 June 1997, before Trial Chamber I (Judge Jorda presiding, Judge Shahabuddeen and Judge Riad) after the entry of a plea of not guilty by the accused on 3 April 1996. The Prosecution is currently presenting its case and has already called over 90 witnesses.

38. In an effort to expedite proceedings, the Trial Chamber, by an order of 17 December 1997, allocated the Prosecution 39 full hearing days from 1 January 1998, to complete the presentation of its evidence. The length of the Prosecution case will accordingly total 75 days. The Defence, in turn, have been given 60 days to present its evidence.

39. In a decision dated 21 January 1998, the Trial Chamber rejected a Defence motion objecting to the admission of hearsay evidence without an inquiry as to its reliability. The Trial Chamber concluded that any evidence is admissible so long as it is deemed by the Chamber to be relevant and of probative value, and that the only issue is the weight that the judges would ultimately give to hearsay testimony.

40. Further, on 30 January 1998, the Trial Chamber deemed that any documentary evidence produced by a party and identified by a witness shall be admitted but that the weight ascribed to it will depend on the evaluation of its authenticity.

41. In addition, on 11 November 1997, the Trial Chamber set out the conditions of applicability of Rule 70 which concerns confidential matters subject to particular conditions of disclosure by the parties, as well as the protection of the rights of accused within the scope of this Rule.

42. In respect of Rule 71 under the authority of which deposition evidence may be taken for use at trial, the Trial Chamber decided on 19 February 1998, taking into account the agreement of the parties in this respect, that depositions could be taken in the temporary absence of one of its members, as this constituted an exceptional circumstance and should not be permitted to deprive the accused of his right to be tried without undue delay.

43. Finally, Trial Chamber I, interpreting Sub-rules 66(A) and (B) and Rule 67, limited the extent of the Prosecution's obligation to disclose witness statements to the Defence. In an order dated 25 August 1997, the Trial Chamber held that the Prosecution's disclosure obligations did not extend to documents such as diaries, radio logs and maps with the personal annotations of the witness.

(iii) The Kupreskic and Others trial

44. The alleged "ethnic cleansing" of the village of Ahmici forms the background to this indictment, issued on 10 November 1995. Six indictees (Zoran and Mirjan Kupreskic, Vladimir Santic, Drago Josipovic, Dragan Papic and Marinko Katava) surrendered voluntarily to the Tribunal on 6 October 1997, and pleaded not guilty at their initial appearance. On 18 December 1997, Vlatko Kupreskic was arrested by the Stabilization Force (SFOR) and pleaded not guilty on 16 January 1998.

45. The Prosecutor was granted leave to withdraw the charges against Marinko Katava on 19 December 1997, and against Stipo Alilovic on 23 December 1997, on the basis that there was insufficient evidence against Marinko Katava to proceed to trial and that Stipo Alilovic had died in 1995.

46. On 15 December 1997, Trial Chamber II (Judge Cassese, presiding, Judge May and Judge Mumba) denied the motions for the provisional release of the remaining six accused, finding that considerations of family responsibility were not sufficient to constitute "exceptional circumstances" required for provisional release.

47. Leave was also granted to the Prosecutor on 10 March 1998, to amend the indictment to add the charge of "persecution on racial, religious or ethnic grounds" in respect of all six accused. Three charges of violations of the laws and customs of war were withdrawn, along with all ten of the initial counts of grave breaches of the Geneva Conventions of 1949. Seven of these last were replaced with charges of crimes against humanity and three charges of violations of the laws and customs of war were added. The accused have pleaded not guilty to each of these new charges.

48. Following amendment of the indictment, the accused all filed motions challenging the form of the indictment and two of the accused filed motions seeking separate trials. These motions were denied by the Trial Chamber on 15 May 1998, as was a separate application for provisional release filed by Vlatko Kupreskic.

49. A number of issues of witness protection have arisen in this case. The Trial Chamber has issued various orders granting use of pseudonyms and other protection to certain witnesses and has also issued requests to the relevant authorities in Bosnia and Herzegovina, to SFOR and to the International Police Task Force (IPTF) seeking assistance with such matters.

50. The Kupreskic trial is scheduled to commence on 17 August 1998.

(iv) The Furundzija trial

51. Anto Furundzija is alleged to have been the commander of a special forces group within the HVO at the time of the attack on the Bosnian Muslim population of the Lasva Valley area. He was arrested by SFOR on 18 December 1997, and pleaded not guilty during his initial appearance on 19 December 1997.

52. The initial (sealed) indictment charged the accused with one count of a Grave Breach of the Geneva Conventions of 1949 and two counts of violations of the laws or customs of war (torture and outrages upon personal dignity including rape). On 13 March 1998, however, Trial Chamber II (Judge Mumba, presiding, Judge Cassese and Judge May) granted leave to the Prosecutor to withdraw the charge of a grave breach of the Geneva Conventions of 1949.

53. A motion by the Defence to have the remaining two charges of violations of the laws or customs of war withdrawn, was rejected by the Trial Chamber on 29 May 1998.

54. After an amended indictment was filed by the Prosecution on 2 June 1998, the trial of the accused commenced on 8 June 1998. The Trial required five sitting days and was completed on 22 June 1998. During this time the Prosecution called six witnesses. The Defence called two witnesses for trial and one witness for sentencing. Following the discovery of additional evidence in the possession of the Office of the Prosecutor, the Trial Chamber ordered the re-opening of the trial on 31 August 1998. Judgement is expected to be rendered in October 1998.

(e) The Dokmanovic trial ("Vukovar Hospital")

55. Slavko Dokmanovic, arrested on 27 June 1997, was indicted jointly with Mile Mrksic, Miroslav Radic and Veselin Sljivancanin for the alleged beating and execution of 200 non-Serb persons removed from Vukovar Hospital in November 1991.

56. Following his arrest by United Nations Transitional Administration for Eastern Slavonia, Baranja and Western Sirmium (UNTAES) forces on 27 June 1997, the accused pleaded not guilty to all charges against him at this initial appearance on 30 July 1997, before Trial Chamber II (Judge McDonald, presiding, Judge Odio-Benito and Judge Jan). The accused then filed a preliminary motion for his release on 7 July 1997, contending that his arrest was illegal. On 2 August 1997, the Trial Chamber granted safe conduct for certain defence witnesses, but held that an order for safe conduct grants only limited immunity from Prosecution and only with respect to the crimes within the Tribunal's jurisdiction for the period of time during which the witness is present at the seat of the Tribunal for the purpose of giving testimony. After noting the importance of the physical presence of witnesses, the Trial Chamber granted safe conduct for two days prior to, and one day after, the giving of testimony.

57. The accused's motion for release was denied by the a decision of the Trial Chamber on 22 October 1997. The Trial Chamber concluded that UNTAES legitimately executed the warrant of arrest pursuant to Rule 59 bis and that the Office of the Prosecutor had informed the accused of his rights. The Trial Chamber further found that the means used to arrest the accused had not violated the principles of international law nor the sovereignty of the Federal Republic of Yugoslavia.

58. A bench of three Judges of the Appeals Chamber refused to grant leave to appeal against this decision of the Trial Chamber on 11 November 1997.

59. Later in November 1997, the Prosecution sought leave to amend the indictment by clarifying and adding information obtained as a result of the exhumation of the site at Ovcara. The Prosecution also filed a motion seeking further advertisement of the Indictment against the three absent co-accused, seeking to obtain their immediate arrest or surrender to the Trial Chamber so as to permit a trial to proceed against all four co-accused. The

request was granted by a newly constituted Trial Chamber II (Judge Cassese, presiding, Judge May and Judge Mumba) on 19 December 1997, and the relevant advertisements were subsequently published and circulated in the region.

60. In an effort to expedite the proceedings and with the agreement of the parties a number of new procedures for expediting the trial procedures while maintaining the right of the accused to a fair trial were implemented by the Trial Chamber. These included pre-trial submission of documents and witness statements, admissions of agreed facts and issues, and procedures for the presentation of expert evidence. It was expressly stated that the witness statements would not be regarded as evidence unless and until submitted in the course of trial. In January 1998, the Defence sought and was granted protective measures for certain Defence witnesses in the form of safe conduct for five witnesses and the giving of evidence via video-conference for a further nine witnesses.

61. The trial of Slavko Dokmanovic commenced on 19 January 1998. The presentation of the Prosecution case-in-chief continued for 16 sitting days. Due to the practical limitations of the Tribunal, which only had one courtroom at this time, this was spread over a period from January to late April 1998. During this period 35 witnesses gave evidence and 212 Prosecution exhibits were admitted, including video-tapes of the some of the events of 20 November 1991, the day on which the evacuation of the Vukovar Hospital took place.

62. The Defence presented its case-in-chief over a period of 12 sitting days from 21 April to 28 May 1998. One hundred and forty-eight Defence exhibits were introduced and 35 witnesses testified for the Defence, including the accused in person. The Prosecution then presented eight witnesses in rebuttal and the Defence presented a total of seven rejoinder and character witnesses over a period of a further six sitting days. Pursuant to an Order of the Trial Chamber, and with the agreement of the parties, matters relating to sentencing were also addressed at this time, with a view to issuing a combined judgement on the merits and on sentence, if any. Closing arguments were presented by both parties on 25 June 1998, and the hearing was closed that day with judgement reserved to a later date.

63. During the proceedings, at the request of the Trial Chamber, the Prosecution submitted materials regarding agreements about the evacuation of people from Ilok, and briefs addressing the application of Article 2 of the Statute and the cumulation of charges. Similarly, the Defence produced additional documents concerning various aspects of the law of the former Yugoslavia. During the rebuttal and rejoinder stage of the proceedings, the Defence sought, and was granted, assistance from the Trial Chamber for its investigators to gain access to certain locations in Croatia.

64. Also during the trial, the Prosecution filed a motion seeking permission to submit deposition evidence pursuant to Rule 71. This request was denied by the Trial Chamber on 11 March 1998, the Trial Chamber preferring to hear the testimony of the witness in question via video-conference link. Various additional orders for protective measures were issued in respect of both Prosecution and Defence witnesses, granting the use of pseudonyms to twelve Prosecution and four Defence witnesses, permitting six witnesses to testify in closed session, subject to release of the redacted transcript thereafter, permitting image-distortion for a number of witnesses and authorizing the giving of evidence via video-conference link for one Prosecution witness from Vukovar and by six Defence witnesses from Belgrade.

65. Just three days after the close of the case and nine days before the judgement was due to be pronounced, the Tribunal was saddened to learn of the death of Slavko Dokmanovic, on 28 June 1998. The death of the accused brings the proceedings to an end and no formal judgement will be issued.

66. The President of the Tribunal commissioned an enquiry into the circumstances of Mr. Dokmanovic's death, headed by Judge Almiro Simões Rodrigues. Reporting on 23 July, Judge Rodrigues confirmed that the death was caused by suicide and found that there was neither evidence of a criminal act nor of negligent behaviour with respect to events surrounding the death of Mr. Dokmanovic, and that all of the Rules of Detention had been respected. At the close of the reporting period, Judge Rodrigues was establishing an international working group to study the issue of suicides in prison and review the types of preventive measures applied in various detention systems. If it considers it appropriate, the Working Group will suggest possible amendments to the existing Rules of Detention.

(f) The Kovacevic trial

67. Milan Kovacevic was the first accused to be arrested by SFOR in July 1997. He was originally charged with complicity in genocide (Article 4 of the Statute), both as an individual (Article 7 (1)) and as a superior (Article 7(3)), in relation to crimes committed against the Bosnian Muslim and Bosnian Croat population of the Prijedor municipality in Bosnia-Herzegovina during 1992. The accused pleaded not guilty during his initial appearance on 30 July 1997.

68. In a decision dated 20 January 1998, Trial Chamber II (Judge May, presiding, Judge Vohrah and Judge Mumba) denied the accused's motion for provisional release. The Trial Chamber held that the medical condition of the accused did not constitute an exceptional circumstance justifying provisional release.

69. On 28 January 1998, the Prosecution filed a Request for Leave to amend the indictment against Milan Kovacevic. The proposed amended indictment expanded the charges against the accused from one count of genocide to fifteen counts, covering Articles 2, 3, 4, and 5 of the Statute. In a Decision filed on 5 March 1998, the Trial Chamber denied leave, holding that to allow such a substantial amendment at this late stage would violate the rights of the accused, inter alia, to an expeditious trial. The Prosecution filed an interlocutory appeal.

70. On 14 May 1998, the Trial Chamber denied a request for concurrent presentation of evidence in the case of Milan Kovacevic, and the cases relating to Miroslav Kvocka, Mladen Radic and Zoran Zigic, all of whom were indicted for crimes in the Prijedor area in 1992. The Trial Chamber held that allowing the request may cause a conflict of interest, resulting in serious prejudice to the accused and would lead to further delay in the case of Kovacevic.

71. The Appeals Chamber (Judge McDonald presiding, Judge Shahabuddeen, Judge Tieya, Judge Nieto-Navia, Judge Rodrigues), on 29 May 1998, issued an order granting the appeal and allowing leave to amend the indictment. Its reasons for doing so were given in a decision filed on 2 July 1998, with an appended separate opinion by Judge Shahabuddeen. The Appeals Chamber was not satisfied that the size of the amendment was objectionable. It also held that the delay resulting from allowing the amendment would not constitute "undue delay" and did not evidence any effort by the Prosecutor to secure an improper tactical advantage. In addition, the Appeals Chamber was of the view that the right of the accused to be promptly informed of the charges against him had not been violated, and that the requested amendments would not violate the principle of speciality. The Trial Chamber accordingly issued an Order granting leave to amend the indictment on 2 June 1998. The amended indictment was reviewed and confirmed by Judge Riad on 29 June 1998. A further application for leave to appeal against a decision of the Trial Chamber refusing to intervene in the confirmation process of the amended indictment is still pending before the Appeals Chamber (composed of Judge Shahbuddeen, presiding, Judge Nieto-Navia and Judge Tieya).

72. On 6 July, the accused pleaded not guilty to the counts contained in the amended indictment. The trial then commenced on that day before Judge May, presiding, Judge Cassese and Judge Mumba; Judge Vohrah having withdrawn from the case in April 1998. By the time the trial commenced, the Trial Chamber had ruled upon or otherwise disposed of more than 30 pre-trial motions and requests. The Prosecution has opened its case and presented witnesses. Further hearings are scheduled for September 1998.

(g) The Simic and Others trial (Simic, Tadic and Zaric)

73. Miroslav Tadic and Milan Simic both surrendered voluntarily to the custody of the Tribunal on 14 February 1998, and made their initial appearances before Trial Chamber I (Judge Jorda, presiding, Judge Riad, Judge Rodrigues) on 17 February 1998. Simo Zaric surrendered on 24 February and made his initial appearance on 26 February 1998. The three accused are jointly charged in the indictment "Milikoviz and Others" with crimes committed in Bosanski Samac. Each accused has pleaded not guilty to the charges against them.

74. The Trial Chamber provisionally released Simic on 26 March 1998, recognizing that the accused's paralysis constituted an exceptional circumstance under Rule 65. The parties agreed on various conditions of release, the Republika Srpska sent a letter of guarantee for $25,000 to the Registry to guarantee Simic's attendance at trial, and the International Police Task Force also agreed to cooperate when necessary. Additional measures were taken to ensure that the accused received adequate medical treatment.

75. In addition, in a Decision of 21 May 1998, the Trial Chamber rejected the Defence's application for leave to use the native language of the assigned counsel in all written communications in the proceedings.

76. The Prosecution filed a motion to amend the indictment on 24 June 1998. The purpose of this motion was to extend the time-frame of the offences and to enlarge the indictment's description of the geographical location in which the offences were allegedly committed. The motion also sought to add to the indictment a new count against the accused: persecution as a crime against humanity. Resolution of this motion remains pending.

(h) The Jelisic trial

77. Goran Jelisic was arrested by SFOR forces on 22 January 1998. He is charged jointly with Ranko Cesic in the "Brčko indictment" with genocide, crimes against humanity, grave breaches of the Geneva Conventions and violations of the laws or customs of war for the killing and beating of prisoners. He pleaded not guilty to all charges at his initial appearance before Trial Chamber I (Judge Jorda, presiding, Judge Riad, Judge Rodrigues) on 26 January 1998.

78. On 12 May 1998, the Trial Chamber granted the Prosecutor leave to amend the indictment by withdrawing the counts relating to grave breaches of the Geneva Conventions. The Prosecutor had indicated in the initial appearance of the accused that in order to expedite the conduct of the trial, she did not intend to call proof relating to the international character of the conflict.

79. The Trial Chamber ordered, proprio motu, that the accused undergo a psychiatric and psychological evaluation. The results of this evaluation were discussed at a status conference on 4 June 1998. The Defence are understood to be still reviewing these results.

80. At the same status conference on 4 June 1998, the Trial Chamber recommended to the parties that they consider ways to accelerate the proceedings by certain means, including the submission of admissions of fact or law. The Defence intimated that it would require approximately two months to discuss this matter with the Prosecution.

(i) The Kvocka, Radic, Zigic and Kos trial and the Zigic trial

81. Miroslav Kvocka, Mladen Radic, Zoran Zigic and Miroslav Kos are all charged in the indictment against "Meakic and Others" ("the Omarska indictment") in relation to events in the Omarska camp. Both Kvocka and Radic were arrested on 8 April 1998, and pleaded not guilty to all charges at their initial appearances on 14 April 1998, before Trial Chamber I (Judge Jorda, presiding, Judge Riad and Judge Rodrigues). Miroslav Kos made his initial appearance on 2 June 1998, and also pleaded not guilty. Zoran Zigic was charged under two separate indictments, the Omarska indictment and the Keraterm indictment ("Sikirica and other"), the latter of which related to events which allegedly took place at the Keraterm camp. Following Zigic's transfer to the custody of the Tribunal on 16 April 1998, he pleaded not guilty to all charges at his initial appearance on 20 April 1998.

82. The request of the Prosecutor to join presentation of evidence in this case with the Kovacevic case was rejected by Trial Chamber II on 14 May 1998. On 15 June 1998, the Prosecution filed a motion to amend both the Omarska indictment and the Keraterm indictment to remove references to all four accused. The four accused would then be charged and tried jointly under a single new indictment. This new indictment contains the additional charge of persecution as a crime against humanity, and alleges that the accused were individually responsible under Article 7(1) of the Statute for crimes in relation to which they were originally only charged with command responsibility under Article 7(3). The new indictment, however, drops charges of grave breaches of the Geneva Conventions under Article 2 of the Statute. Resolution of this matter remains pending.

83. In addition, on 15 April 1998, the Defence was granted an order pursuant to Sub-rule 63(A), protecting the accused Radic and Kvocka against questioning by the Prosecution in the absence of counsel.

(j) The Kunarac trial

84. Dragoljub Kunarac was charged with several others in an indictment, issued on 26 June 1996, arising from incidents alleged to have occurred at the Foca camp in south-eastern Bosnia and Herzegovina. Kunarac is charged with torture as a crime against humanity under Article 5 (f) of the Statute, rape as a crime against humanity under Article 5 (g), torture as a grave breach under Article 2 (b), and torture as a violation of the laws or customs of war under Article 3.

85. On 5 March 1998, the accused surrendered voluntarily to the custody of the Tribunal. At his initial appearance before Trial Chamber II (Judge Cassese, presiding, Judge May and Judge Mumba) on 9 March 1998, the accused pleaded guilty to one of the four charges against him, namely rape as a crime against humanity. After further hearings and consideration, the Trial Chamber decided that it could not accept the plea as it was clear that although the accused was admitting that certain events had taken place, he did not

fully understand the nature and implications of the charge against him at the time that he pleaded. The Trial Chamber, therefore, entered a plea of not guilty on behalf of the accused.

86. As part of the overall effort of the Tribunal to expedite its proceedings, Judge Mumba was appointed a pre-trial Judge in June 1998, with power to determine issues in the pre-trial phase and to ensure that the matter proceeds swiftly to trial. The Prosecution has given notice of its intention to amend the indictment in this case and has been granted to 15 July 1998, in which to seek leave to do so.

(k) The Krnojelac trial

87. Milorad Krnojelac is indicted for crimes which allegedly took place in a prison facility called the Foca KP Dom in Bosnia Herzegovina between April 1992 and August 1993. Hundreds of men, mainly Muslim, were detained in KP Dom and were subjected to beatings, torture, and killing. It is alleged that Krnojelac was the commander of KP Dom and he is charged with both individual and command responsibility for 18 counts of crimes against humanity, grave breaches of the Geneva Conventions of 1949, and violations of the laws or customs of war.

88. Krnojelac was arrested by SFOR and transferred to the United Nations Detention Unit on 15 June 1998. At his initial appearance on 18 June 1998, before Trial Chamber II (Judge Cassese, presiding, Judge May, and Judge Mumba), Krnojelac pleaded not guilty on all counts. The case is currently in the pre-trial phase, with two motions having been filed by the Prosecution on protection of witnesses and the preservation of evidence.

2. Judicial Orders

(a) Indictments and arrest warrants

89. No new public indictments have been issued since the Prosecutor's decision to seek orders from confirming Judges that certain indictments must not to be disclosed publicly and that the names of accused not be released until they are apprehended. An undisclosed number of non-public indictments have been confirmed in the past year. The Prosecutor believes that the decision to seal indictments was the key factor in convincing those in a position to apprehend suspects to take a more active and positive role.

(i) Withdrawal of indictments

90. On 5 May and 8 May respectively, leave was granted to the Prosecutor to withdraw charges against 11 accused in the Omarska indictment and 5 accused in the Keraterm indictment. The Prosecutor had sought this action in part to control the potential work load of the Tribunal and to minimise the possibility of having too many additional trials resulting from the same indictment. In withdrawing the charges against these accused, who were relatively low-level perpetrators, the Prosecutor indicated a willingness to assist national courts to undertake the prosecutions.

91. In addition, on 19 December 1997, leave was granted to the Prosecutor to withdraw charges made in indictments issued in November 1995, against four accused. Three of the accused, Marinko Katava, Pero Skopljak and Ivan Santic, had voluntarily surrendered to the custody of the Tribunal on 6 October 1997. The Prosecutor explained that there was 'insufficient basis to justify proceeding to trial and that there were no further charges

outstanding against them. The fourth accused, Stipo Alilovic, was confirmed to have passed away in 1995.

(ii) Amendments of indictments

92. In the Kovacevic case, the Prosecutor sought to amend the indictment against the accused which originally contained only the single charge of genocide. The Prosecution wished to add the charges of complicity to commit genocide, crimes against humanity, grave breaches of the Geneva Conventions of 1949 and violations of the laws or customs of war. The Prosecutor submitted that the original indictment was drafted in urgent circumstances to take advantage of an unprecedented opportunity to arrest the accused and thus, for expediency, contained only the most serious charge. In a decision dated 6 March 1998, Trial Chamber I refused to grant leave to the Prosecution to amend the indictment. This decision was reversed by the Appeals Chamber by its order dated 29 May 1998, (composed of Judge McDonald presiding, Judge Shahabuddeen, Judge Tieya, Judge Nieto-Navia, Judge Rodrigues) which allowed the indictment to be amended. The Appeals Chamber subsequently set out its reasons for allowing the appeal in a Decision filed on 2 July 1998, with an appended separate opinion by Judge Shahabuddeen. The Appeals Chamber held that the size of the amended indictment was not objectionable, that there would be no undue delay in the proceedings, that the Prosecutor had not sought to gain any improper tactical advantage and that the right of the accused to be informed promptly of the charges against him had not been violated.

93. In the Jelisic case, the Prosecutor sought to amend the indictment so as to withdraw charges relating to Article 2 of the Statute "in order to significantly expedite the trial proceedings". Trial Chamber I (Judge Jorda, presiding, Judge Riad and Judge Rodrigues) granted the motion on 12 May 1998.

94. In the Kupreskic and Others case, leave was granted to the Prosecutor on 10 March 1998, to amend the indictment. The amended indictment added the charge of persecution on racial, religious or ethnic grounds in respect of all six accused and withdrew the initial counts of grave breaches of the Geneva Conventions of 1949, substituting them with the same number of counts charging crimes against humanity.

95. In addition, the Prosecutor has filed a number of motions requesting leave to amend indictments in the following cases: the Kordic and Cerkez case, the Simic and Others case, the Kunarac case, and with respect to the accused Zigic, Radic, Kvocka and Kos. The latter four accused are charged jointly under the Omarska indictment ("Meakic and Others") in relation to events alleged to have taken place at the Omarska camp. The accused Zigic is also indicted another the Keraterm Indictment ("Sikirica and Others") in addition to the Omarska indictment. The Prosecutor seeks, in its motions, to withdraw all four accused from the respective indictments against them and to join them in a single new indictment. This new indictment adds a new charge of persecution as a crime against humanity, alleges the individual responsibility of all four accused, but drops the charges of grave breaches of the Geneva Conventions under Article 2 of the Statute.

(b) Subpoenas and Binding Orders

(i) Blaskic trial

96. On 29 October 1997, the Appeals Chamber handed down its decision in the Blaskic case on the legality of the subpoena duces tecum addressed to Croatia and its Defence Minister on 15 January 1997, ordering them to surrender documentary evidence. The Appeals Chamber unanimously quashed the subpoena duces tecum, holding that the term

"subpoena duces tecum" referred only to binding orders addressed by the Tribunal, under threat to penalty, to individuals acting in their private capacity and, therefore, could not be issued to a State or a State official acting in his or her official capacity. The Appeals Chamber held that States can only receive "orders" or "requests" which are binding under Article 29 of the Statute and are not enforceable under threat of penalty by the Tribunal. A judicial finding of non-compliance by a State with such binding order may, however, be reported to the Security Council. In addition, national security concerns asserted by States will not automatically excuse a State from complying with a binding order to surrender relevant documents, but will be scrutinised by the Trial Chamber. State officials acting in their official capacity, being merely instruments of the State, cannot receive either subpoenas or binding orders.

97. On 12 January 1998, the Prosecutor filed an ex parte motion for the issuance of a binding order to the Republic of Croatia for the production of documents. The motion was granted on 30 January 1998. On 13 February 1998, Croatia filed a motion for review of this binding order by the Appeals Chamber pursuant to Rule 108 bis. The Appeals Chamber, on 26 February 1998, ordered that Croatia and the parties be heard by the Trial Chamber. The Trial Chamber held a hearing on 22 April 1998, and further attempts were made to secure an agreement between Croatia and the Prosecution. As of 8 July 1998, Trial Chamber I was still seized of the matter.

(ii) Celebici trial

98. On 15 October 1997, the Trial Chamber found that Rule 54 permitted subpoenae to be directed to private individuals and issued subpoenae ad testificandum to six witnesses on the request of the Prosecutor. The Government of Bosnia and Herzegovina was requested, pursuant to Article 29(2) of the Statute, to serve the subpoenae on the witnesses and to ensure their appearance. The Trial Chamber also granted the Prosecutor's request that the Custodian of Records of the Government of Bosnia and Herzegovina appear before the Judges in order to authenticate documentary evidence. In its orders, the Trial Chamber requested that, in the event of non-compliance, a representative of the Government of Bosnia and Herzegovina should appear before it to explain the reasons why the orders were not executed. The subpoenaed witnesses have subsequently testified before the Trial Chamber.

(c) Amicus curiae

99. Amicus curiae participated in proceedings at the Tribunal only once during the reporting period. Seized with the request of the Republic of Croatia for review of the decision of Trial Chamber II (issuance of subpoenae duces tecum) of 18 July 1997, under Rule 108 bis, the Appeals Chamber invited interested amici curiae on 29 July 1997, to submit briefs by 15 September 1997, addressing issues regarding the power of the Tribunal to issue subpoenae duces tecum to a State, officials of a State acting in their official and private capacities, appropriate remedies for non-compliance and other related issues such as national security. As a result, nine amici briefs were filed.[17]

17 The amici curiae were: The People's Republic of China; the Government of the Kingdom of the Netherlands; the Governments of Canada and New Zealand; the Government of Norway; Ruth Wedgwood; Max Planck Institute for Foreign and International Criminal Law; Juristes sans frontières and Alain Pellet; Carol Elder Bruce; and Herwig Roggemann.

(d) Interlocutory appeals

(i) Appeals from decisions on interlocutory motions

100. During the reporting period, eight interlocutory appeals were brought before a bench of three Judges of the Appeals Chamber. The appeals were brought pursuant to Rules 72 and 73, which govern appeals against decisions on preliminary and other motions.

101. Rules 72 and 73 were amended by the Judges in Plenary Session in November 1997, greatly expanding the jurisdiction of the Appeals Chamber to hear interlocutory appeals. Before this amendment, however, two decisions refusing leave to appeal were rendered by benches of the Appeals Chamber. In Prosecutor v. Slavko Dokmanovic, on 11 November 1997, a bench of three Judges of the Appeals Chamber refused the accused leave to appeal against a decision of the Trial Chamber denying his release on the ground of illegality of arrest. In addition, a bench of the Appeals Chamber also refused leave to appeal in Prosecutor v. Delalic et al., in which the accused Delic challenged the decision of a Trial Chamber denying him provisional release.

102. After the amendment of Rules 72 and 73, five applications for leave to appeal were brought before benches of the Appeals Chamber pursuant to Rule 73(B). Four of these applications were brought in the case of Prosecutor v. Delalic and Others from decisions regarding the admission of evidence (decisions of 16 December 1997, and 4 March 1998), disclosure (decision of 3 March 1998), and adjournment of proceedings (decision of 15 June 1998). All four applications were refused. On 22 April 1998, a bench of the Appeals Chamber, however, granted the Prosecutor leave to appeal in Prosecutor v. Milan Kovacevic against a decision of a Trial Chamber which denied leave to file an amended indictment.

(ii) State requests for review

103. Two State requests for review have been entertained by the Appeals Chamber pursuant to Rule 108 bis. On 29 October 1997, the Appeals Chamber handed down its Judgement on the Request of the Republic of Croatia for Review of the Decision of Trial Chamber II of 18 July 1997, regarding the power of the Tribunal to issue subpoenas to States and state officials. As a consequence of this decision, binding orders were issued to the Republic of Croatia by Trial Chamber I on 30 January 1998. Croatia filed a request for review of this binding order on 26 February 1998, pursuant to Rule 108 bis. In its Decision of 26 February 1998, the Appeals Chamber suspended the execution of the binding order and referred the matter back to Trial Chamber I so as to allow the parties to be heard.

(e) Rule 61 proceedings

104. There have been no Rule 61 proceedings during the reporting period.

C. Regulatory activity

1. Amendments to the Rules of Procedure and Evidence

105. At the fourteenth plenary session of the Tribunal which closed on 12 November 1997, the Judges amended a significant number of Rules and adopted five new Rules. Due to the sheer quantity of the amendments, it suffices here merely to list the amended Rules as: 2 (French version only), 5, 13, 14, 28, 36, 40, 40 bis, 44, 45, 47, 50, 55, 59 bis, 60, 61, 62, 65, 66, 72, 73, 77, 81, 88, 89, 90 bis, 95, 99, 108, 108 bis, 111 and 116. The new Rules which were adopted are: 11 bis (suspension of indictment in case of proceedings

before national courts), 53 bis (service of indictment), 62 bis (guilty pleas), 126 (general provision on time) and 127 (variation of time-limits).

106. In December 1997, the President of the Tribunal established a working group ("the Rules Committee") and appointed Vice-President Mohamed Shahabuddeen to investigate the objective of conducting trials more expeditiously without jeopardising respect for the rights of accused persons. Two trial management workshops were organised with the assistance of the Coalition for International Justice for all Judges. These workshops were attended by external experts from both civil and common law jurisdictions who discussed the issue of international criminal trial management, with particular emphasis on the conduct and expedition of complex criminal trials. Subsequently, the Rules Committee recommended, inter alia, amendments to the Rules and Procedures of Evidence which would enable a far greater regulation of the pre-trial stage of proceedings, including the appointment of a pre-trial Judge.

107. A number of the recommendations of the Rules Committee were approved by the Judges meeting at the seventeenth plenary session held from 11 to 13 March 1998. The new Rules adopted by that plenary are 65 ter (pre-trial judge), 73 bis (pre-trial conference), 73 ter (pre-defence conference) and 98 bis (motion for judgement of acquittal). The plenary also amended the following Rules: 86, 90, 94.

108. At the eighteenth plenary session, on 9 and 19 July 1998, the Judges amended Rules 11 bis, 15, 45, 47(F), 50, 62 bis, 65, 66, 72, 73, 77, 85, 86, 87, 88, 88 bis, 90, 94, 99, 100, 101, 102, 103, 108 bis, & 111 and adopted new Rules 65 ter, 73 bis, 73 ter, 74 bis, 94 bis and 98 ter.

2. Amendments to other Tribunal rules and regulations

109. In addition to the Rules of Procedure and Evidence, certain activities of the Tribunal are regulated by other sets of rules an regulations, such as the Rules of Detention and the Regulations for Detainees, which set out principles and conditions regarding persons detained at the United Nations Detention Unit in The Hague. In addition, the Tribunal has issued a Directive on the Assignment of Defence Counsel, which addresses issues relating to the appointment of counsel for indigent accused. The only amendments to these rules and regulations during the reporting period were the addition of Rule 66 to the Rules of Detention on 25 July 1997, and the modification of various procedural and financial provisions of the Directive on 12 November 1997, and on 9 and 10 July 1998, at the fourteenth and eighteenth plenary sessions, respectively.

III. OFFICE OF THE PROSECUTOR

A. Overview

110. At the end of last reporting period there were only nine indicted persons in the Tribunal's custody. At that time, however, the Office of the Prosecutor reported that considerable efforts were being made to encourage States and entities to surrender or arrest indicted persons residing in their territories. Over the past twelve months, however, the Prosecutor's strategy of seeking sealed indictments, a more robust interpretation by SFOR of its policy of detaining indictees and an increase in the number of voluntary surrenders, have resulted in a dramatic increase in the number of cases now in trial and being prepared for trial. There is, in addition, every reason to believe that further arrests and voluntary surrenders can be expected in the near future.

111. In contrast with the early years of its establishment, the Office of the Prosecutor has been heavily engaged in its two primary functions over the course of the past year: investigation and prosecution. The Office of the Prosecutor has been accordingly allocated increased resources and has expanded to meet the demands placed upon it. The challenge facing the Office of the Prosecutor is to prosecute currently pending cases efficiently and to the high standards expected by the Trial Chambers and the international community, while at the same time maintaining a programme of important new investigations, including those relating to the troubling events in Kosovo.

B. Arrests and voluntary surrenders

112. Since October 1997, a total of nineteen persons indicted by the Tribunal have either been apprehended or have surrendered themselves voluntarily to the Tribunal.

113. On 6 October 1997, ten former members of the political and military bodies of the then Croatian community of Herzeg-Bosna surrendered themselves to the custody of the Tribunal. The ten are charged in two separate indictments ("Kordic and Others" and "Kupreskic and Others"). This, being the first occasion that accused had voluntarily surrendered themselves to the Tribunal, prompted the Prosecutor to call upon the authorities of other States to comply with their international obligations to surrender accused residing in their territories.

114. In December, SFOR forces apprehended two further accused, Vlatko Kupreskic and Anto Furundzija in Prijedor. In January 1998, Goran Jelisi} was arrested by SFOR troops in Bijeljina; in March, Dragoljub Kunarac voluntarily surrendered to SFOR forces near Foca; in April, Miroslav Kvocka and Mladen Radic were apprehended in Prijedor by SFOR and Zoran Zigic was taken into custody by ICTY investigators and SFOR troops in Banja Luka; in May, Miroslav Kos was arrested by SFOR troops in Banja Luka; and in June, Milorad Krnojelac, who was charged in a sealed indictment, was arrested by SFOR forces in Foca.

C. Trial and appellate activity

115. In the reporting period, the trial and appellate activities of the Office of the Prosecutor have increased dramatically. Six trials, involving the nine accused who had been in the custody of the Tribunal during the period covered by last year's annual report, either commenced or continued. To the burden of the prosecutorial work involved in these trials was added the preparations for trying the large number of accused who had surrendered or had been arrested during the reporting period. There are at present, 28 persons in trial or awaiting trial charged in 13 separate indictments. The Prosecutor has completed the prosecution argument in five cases: Celebici, Blaskic, Aleksovski and Furundzija. The Kovacevic trial began in early July and the Kupreskic trial is scheduled to begin in August. The remaining six cases (Kordic/Cerkez; Jelisic; Simic and Others; Kunarac; Kvocka/Radic/Zigic/Kos and Krnojelac) are in various stages of pre-trial preparation.

D. Investigative activity

116. The number of indictments confirmed to date by no means represents the full extent of criminal conduct that merits prosecution at the international level. Criminal investigations continue. They are undertaken by multi-disciplinary teams of the Prosecutor's staff whose objective is to get to the source of the evidence either by

interviewing witnesses directly or by conducting on-site investigations which enable investigators to establish facts for themselves. The Prosecutor regards the ability to obtain evidence in this important manner as being fundamental to the work of her Office. While prosecutorial and investigative strategies are developed in The Hague, the majority of the gathering of evidence is performed in the States of the former Yugoslavia. At the commencement of the reporting period, twenty-two investigations were fully active.

117. In October 1997, many investigators were redeployed to assist with preparing the trials of the ten accused who had voluntarily surrendered to the custody of the Tribunal at that time. This redeployment led to the temporary suspension of a number of investigations. Subsequent arrests and surrenders of nine other accused has led to a further redeployment of investigators with the result that additional investigations have been suspended. An urgently needed increase in resources was approved by the Security Council in December 1997. The active recruitment of new staff is now slowly enabling the Prosecutor to return to the level of investigative activity of a year ago. Ten investigations are currently fully active.

1. Kosovo

118. In March 1998, bearing in mind the potential of the Tribunal to contribute to the maintenance of international peace and security, the Prosecutor confirmed publicly that the territorial and temporal jurisdiction of the Tribunal covered any serious violations of international humanitarian law taking place in Kosovo and emphasised that she was empowered to investigate such crimes. The Security Council, in resolution 1160 (1998) of 31 March 1998, requested the Prosecutor to begin gathering information related to violence in Kosovo that may fall under the Tribunal's jurisdiction. The Prosecutor proceeded to request information from States and organizations about violent incidents in Kosovo. The General Assembly, in May 1998, approved a budget request enabling the Prosecutor to recruit a team to undertake preliminary investigations.

2. Exhumations: 1997

119. The exhumations programme for 1997 commenced in early July after being delayed by shortages in funding. The response to an appeal by the Prosecutor to Member States for $2.2 million enabled the project to begin. All sites in the 1997 programme were located in Bosnia-Herzegovina: Kratine, Brčko and Bosanski Samac. In total 70 bodies were recovered from two sites. At the third site, investigators were unable to establish whether or not a grave was present. In addition to the exhumations work, a number of other crime scenes were examined and forensic evidence recovered. The Office of the Prosecutor is indebted to the following States for their contributions to this project: Austria, Canada, Malaysia, the Netherlands, Sweden, Switzerland and the United States of America.

3. Exhumations: 1998

120. Work on the exhumations programme for 1998 began in November 1997 with an appeal to Member States for funding. The Office of the Prosecutor acknowledges the generous response by the United Kingdom, Canada, Denmark, Saudi Arabia and the United States of America. All exhumation work in 1998 is to take place in the Republika Srpska and all sites are related to the events which occurred near Srebrenica in 1995. Work on the first site began on 20 April 1998, on the plateau of the dam at Brnice, near Zvornik. At the time of reporting, a third site is nearing completion and approximately 130 bodies have been exhumed. It has also been confirmed that some of the mass grave sites have been tampered with and bodies have been removed. Reburial sites have also been located.

4. Search warrants

121. During December 1997 and February 1998, investigators from the Office of the Prosecutor obtained search warrants from the Judges of the Tribunal, authorizing the search and seizure of certain specified documentary evidence from a number of identified locations within Republika Srpska in Bosnia and Herzegovina. These documents had been identified as being relevant to a number of the Prosecutor's investigations and prosecutions. The search warrants were executed by the Prosecutor's investigators, with the assistance of SFOR troops, police from Republika Srpska and the IPTF. This successful initiative by the Prosecutor yielded a quantity of valuable evidence, which will facilitate the forward progress of some investigations and shorten the length of others. Approximately 220,000 pages of documents have been seized, all of which are in the Bosnian/Serbian/Croatian (B/S/C/) languages.

5. Liaison Office in Banja Luka

122. Meetings with Republika Srpska authorities in Banja Luka have led to the establishment of a small liaison office in Banja Luka. The office shares space with other United Nations organizations and is currently being staffed part-time by staff from the Sarajevo office. This is the fourth liaison office established by the Prosecutor in the former Yugoslavia. The others are in Zagreb, Sarajevo and Belgrade. Liaison offices provide support to the Tribunal's investigators, screen witnesses, assist with the transportation of witnesses to The Hague and serve as Tribunal contact points for local and national governments, international organizations, non-governmental organizations, United Nations organizations and agencies, and SFOR.

E. Cooperation with SFOR and other organizations in the former Yugoslavia

123. Productive working relationships with organizations in the former Yugoslavia continues to be crucial to the success of the Prosecutor's investigations. Since the initialling of the Dayton Accords in 1995, the Tribunal has established and maintained valuable contacts with the Implementation Force ("IFOR")/SFOR at all levels. The Prosecutor and members of her staff also have an excellent working relationship with the Secretary-General of the North Atlantic Treaty Organization ("NATO") and the Supreme Allied Commander in Europe in the establishment of modalities of cooperation and assistance. Since December 1997, SFOR troops have detained or assisted with the voluntary surrender of nine indicted persons. This actions by SFOR has been perceived as a critical turning point, indicating a renewed determination on the part of the international community to assist the Tribunal. The continued assistance from IFOR and SFOR troops was essential for the success of the

exhumations programmes, as well as numerous missions by investigators into insecure areas in the former Yugoslavia.

124. Other organizations in the former Yugoslavia that have been of particular assistance to the Tribunal during this period are the United Nations Mission in Bosnia and Herzegovina (UNMIBH) and the Office of the High Representative (OHR).

F. Information retrieval

125. A vast amount of information and evidence has been collected by the Prosecutor in relation to serious violations of international humanitarian law in the former Yugoslavia. In addition to witness and expert statements, specific documentation such as military records, medical records and videos of news broadcasts have been collected. Computerised data bases, containing information linked to the sources of hundreds of thousands of pages of processed documents, have been developed to support investigators and attorneys in the preparation of the cases. The volume of documentation available to the Prosecutor has grown exponentially and in 1996, a large backlog developed. With the support of the Government of the Netherlands, a project to reduce the backlog commenced in 1997. To date, over 400,000 pages of material has been processed and it is expected that the remainder of the backlog will be eliminated by the end of 1998.

126. The information in the databases can be accessed under certain conditions for the purposes of humanitarian assistance and the strengthening of institutions. In April 1997, the IPTF requested the Office of the Prosecutor to search its databases for information on candidates proposed to serve as officers of the new police force throughout Bosnia and Herzegovina. The first phase of this project was completed in September 1997, and a second phase is planned to begin in July 1998.

127. In 1996, discussions took place between the Office of the Prosecutor and the International Committee of the Red Cross (ICRC) on the possibility of extracting information from the database files on missing persons in the former Yugoslavia. In June 1997, the Prosecutor and the ICRC began to cooperate in a project to retrieve information about the identities of missing persons. The project involved the matching of reliable information about the identities of persons killed during the conflict with information supplied by relatives of the victims. The project was successfully completed in June 1998.

G. "Rules of the Road"

128. The parties to the Dayton Accord agreed in Rome on 18 February 1996 that persons, other than those already indicted by the Tribunal, may be arrested and detained for serious violations of international humanitarian law only pursuant to a previously issued order, warrant or indictment that had been reviewed and deemed consistent with international legal standards by the Tribunal. The work emanating from this agreement is referred to as the "Rules of the Road" project.

129. The Prosecutor's consent to review cases under this scheme was given on the understanding that additional resources would be provided to the Office of the Prosecutor to allow the work to be done. During the reporting period, some work was undertaken as a result of a donation to the Tribunal's trust fund from Canada, and with assistance provided by the Coalition for International Justice and the American Bar Association's Central and East European Law Initiative (CEELI), funded by the United States of America. Review results were notified to the requesting party in approximately 65 cases. However, donations of resources have not been sufficient to enable the backlog of cases submitted for review to be cleared.

H. Sexual assault workshops

130. From 24 to 26 March 1997, the Prosecutor convened a three-day roundtable in Arusha, Tanzania, to discuss the use of evidence of sexual violence in the investigations and prosecutions conducted by the Offices of the Prosecutor in both Tribunals and in particular to identify measures that would further normalise investigation and prosecution approaches to sexual violence. A second workshop was held again in Arusha, from 4 to 6 October 1997, and was attended by representatives of the Rwandan government and NGOs working in Rwanda, as well as investigators and attorneys from both the ICTY and the ICTR. Valuable discussions were held, particularly in relation to interviewing sexual assault victims, maintaining contact with them and the role of local NGOs in the Prosecutor's work. Funding support for these meetings came from the United States of America and the John D. and Catherine T. MacArthur Foundation.

I. Contribution towards the Creation of a Permanent International Criminal Court

131. The Prosecutor and members of the Office of the Prosecutor made a number of contributions to the work of the UN Preparatory Committee and to numerous seminars throughout the year addressing the issues involved in creating a permanent international criminal court. The work of the two ad hoc tribunals, the ICTY and the ICTR, was generally regarded as a positive contribution. Accounts of the experiences of the two tribunals were well received, particular interest being shown in the practical lessons learned in conducting international investigations and prosecutions with, or without, the support of national authorities.

132. In December 1997, the Prosecutor addressed a session of the Preparatory Committee for the International Criminal Court in New York. She supported the creation of a permanent court but stressed the need for a strong and effective institution. In May 1998, the Prosecutor and the Max Planck Institute for Foreign and International Criminal Law jointly organised an international workshop of distinguished legal experts in Freiburg, Germany, to address the question of the independence and accountability of the prosecutor of a Permanent International Criminal Court. The Workshop was funded by contributions from The Netherlands, Norway, Germany and the Open Society Institute. A declaration of basic principles was unanimously adopted and distributed for the attention of delegates to the UN Diplomatic Conference of Plenipotentiaries on the Establishment of an International Criminal Court. A member of the Prosecutor's staff also attended the Rome Conference in June, so that a source of information about the work of the ad hoc tribunals was readily available to delegates and to working groups.

IV. THE REGISTRY

133. The Registry of the Tribunal is responsible for the administration and servicing of the Chambers, the Office of the Prosecutor of the Tribunal and the Defence counsel appearing before it. It has a myriad of tasks. In addition to its court management functions, it administers a legal aid system of assigning Defence counsel to indigent accused, supervises the UN detention unit and maintains diplomatic contacts with States and their representatives. Operating under the supervision of the Registrar, the Deputy Registrar and the Chief of Administration, the Registry has adopted innovative approaches to its diverse tasks. The increasing workload of the Tribunal in the reporting period has highlighted the need to fine-tune the procedures developed and adopted in the first three years of the Tribunal's existence, so as to be able to respond promptly and effectively to new issues as they arise.

A. Judicial Department

1. Court management and support services

134. The Court Management and Support Services Unit of the Judicial Department of the Registry, is responsible for making all arrangements for the preparation and smooth conduct of courtroom hearings. This includes arranging for the notification and distribution of documents, providing technical assistance, preparing minutes and records of Chamber's sittings, and filing and distributing judgements, orders, requests, pleadings, motions and other official documents of the Tribunal. In addition, this Unit maintains a Record Book open to the public, manages all the exhibits submitted by the parties in trial, and maintains the Tribunal's archives.

135. During the period under review, the Court Management and Support Services Unit has been occupied with hearings in several cases. Only one main courtroom was available until the 5 May 1998. It had been in use almost every day with trial proceedings in the Celebici, Blaskic, Aleksovski, Dokmanovic and Furundzija cases, preliminary motions in these and other cases, the appeal in the Erdemovic case, and appeal hearings in the Tadic case.

136. Two new courtrooms became operational on 5 May and 12 June 1998, respectively. This means that the Tribunal will be able to schedule current and forthcoming trials without repeated interruption.

2. Chambers Support Unit

137. The Chambers Support Unit provides dedicated research and management support to the Judges, whether sitting in individual Chambers or acting jointly in plenary. It was established as a formal unit in January 1998, to reflect the actual practice of providing legal support to Chambers through the Registry.

138. The Unit consists of four Legal Officer professional staff members, assisted by 12 to 15 legal assistants funded through the European Union (EU). With the phasing out of gratis personnel in July 1998, these junior positions have been converted to staff posts as from 1 August 1998.

139. The members of the Unit work in close coordination with the individual Chambers, providing research and drafting assistance, editorial services in both working languages,

and case management support. The more senior Legal Officers supervise and coordinate research and other tasks undertaken by the legal assistants, who are assigned to individual Judges. They also act as channels for informal communication between the Judges and the parties, thus speeding up the proceedings. The Legal Officers assist the Judges in plenary with issues affecting the Chambers as a whole, in particular with amendments to the Rules of Procedure and Evidence and other basic documents. The Legal Officers also assist the Bureau in the preparation of minutes and research, and serve on a number of committees on matters of particular interest to the Chambers, such as formal publication of Tribunal judgements and decisions, in both book and electronic format, supervision and control of official translations and developments in courtroom technology.

3. Defence Counsel

140. A number of provisions in the Statute, the Rules of Procedure and Evidence and the Directive on Assignment of Defence Counsel (Directive) establish the right of suspects and accused to be assisted by counsel of their choice. If they do not have sufficient means to pay for counsel, they may apply to the Registrar to have counsel assigned to them. The costs and expenses of such legal representation are met by the Tribunal. The Directive sets out conditions and procedures for the assignment of counsel and other Defence team members to indigent suspects or accused.

141. The Registrar maintains a list of counsel willing to be assigned to indigent accused or suspects. The number of attorneys seeking to be placed on the list has again increased significantly, from 250 lawyers in mid-1997 to 350 in mid-1998.

142. From August 1997 to June 1998, the following Defence counsel were assigned by the Tribunal: Milan Vujin and John Livingston for the accused Dusko Tadic, Jovan Babic and Nikola Kostic for the accused Drazen Erdemovic, Edina Residovic and Eugene O'Sullivan for the accused Zejnil Delalic, Salih Karabdic and Thomas Moran for the accused Hazim Delic, John Ackerman and Cynthia McMurrey for the accused Esad Landzo, Zeljko Oljulic and Michael Greaves for the accused Zdravko Mucic, Toma Fila and Vladimir Petrovic for the accused Slavko Dokmanovic, Dusan Vucicevic and Anthony D'Amato for the accused Milan Kovacevic, Luka Misetic and Sheldon Davidson for the accused Anto Furundzija, Borislav Krajina for the accused Vlatko Kupreskic, Veselin Londrovic for the accused Goran Jelisic, Drago Vukovic for the accused Milan Simic, Borislav Pisarevic for the accused Simo Zaric, Igor Pantelic for the accused Miroslav Tadic, Slavisu Prodanovic for the accused Dragoljub Kunarac, Krstan Simic for the accused Miroslav Kvocka, Veljko Guberina for the accused Mladen Radic, Simo Tosic for the accused Zoran Zigic, Alexander Hugh Milne for the accused Milojica Kos, Mihajlo Bakrac for the accused Milorad Krnojelac. John Ackerman was replaced in March 1998, by Nancy Boler. Michael Greaves was replaced in April 1998, by Thomas Kuzmanovic.

143. Non-assigned counsel (paid by the accused) were as follows: for the accused Tihomir Blaskic, counsels Russell Hayman and Anto Nobilo; for the accused Dario Kordic, counsels Leo Andreis, Mitko Naumovski, Turner Smith Jr. and David Geneson; for the accused Mario Cerkez, counsel Bozidar Kovacic; for the accused Zlatko Aleksovski, counsel Goran Mikulicic; for the accused Zoran Kupreskic and accused Mirjan Kupreskic, counsel Ranko Radovic; for the accused Vladimir Santic and Marinko Katava, counsel Petar Pavkovic; for the accused Drago Josipovic, counsel Luko Susak; for the accused Dragan Papic, counsel Mr. Petar Puliselic; for the accused Pero Skopljak, counsel Ivan Kern. The accused Zoran and Mirjan Kupreskic, Drago Josipovic, Vladimir Santic, Dragan Papic, Mario Cerkez and Zlatko Aleksovski filed applications for declaration of indigency in late 1997, and were subsequently declared indigent by the Registrar.

144. The Defence Counsel Unit of the Registry addresses most matters relating to Defence counsel and to the legal aspects of the UN detention unit (UNDU). The Unit is in charge of maintaining the above-mentioned list of counsel willing to be assigned to indigent accused, assisting with the assignment and withdrawal of counsel and other Defence team members, preparing payment and ensuring verification of billing for legal services for the indigent accused, transmitting judicial communications to counsel and accused and a wide variety of other tasks of a juridical, judicial and organizational nature.

145. Another important function of the Unit is to ensure that counsel receive the support and cooperation they are entitled to under the Rules of Procedure and Evidence and the Directive. However, because of budgetary constraints, limits are placed on the fees and expenses that may be claimed by assigned counsel and on the number of Defence team members, (e.g. legal assistant or investigators), which may be assigned in addition to counsel. The Unit audits remuneration and expense claims by Defence counsel.

146. One of the main tasks of the Defence Counsel Unit in 1997 and early 1998 was the adaptation of formerly individualised procedures to standard operating procedures. The sharp increase of detained accused entailed a progressive increase in the number of defence team members, and, accordingly, of detention-related matters needing to be addressed.

147. The seven-member Advisory Panel, which is the consultative body on Defence counsel matters, consists of two members chosen by ballot from the list of persons willing to be assigned to indigent suspects and accused, two members proposed by the International Bar Association, two members proposed by the Union internationale des avocats and the President of the Dutch Order of Advocates or his representative. The Advisory Panel was, inter alia, consulted regarding a proposed regulation for the soliciting of counsel within the Tribunal's rules.

148. The Defence Counsel Unit is staffed with one legal officer, two associate legal officers, one secretary and one administrative assistant.

4. Detention Unit

149. The following persons have been incarcerated at the UNDU during the reporting period: Dusko Tadic, Drazen Erdemovic, Zejnil Delalic, Zdravko Mucic, Esad Landzo, Hazim Delic, Zlatko Aleksovski, Slavko Dokmanovic, Milan Kovacevic, Tihomir Blaskic, Dario Kordic, Mario Cerkez, Drago Josipovic, Mirjan Kupreskic, Vlatko Kupreskic, Zoran Kupreskic, Dragan Papic, Vladimir Santic, Anto Furundzija, Miroslav Kvocka, Mladen Radic, Zoran Zigic, Simo Zaric, Miroslav Tadic, Goran Jelisic, Dragoljub Kunarac, Milojica Kos, Mirolad Krnojelac, Marinko Katava, Ivan Santic, Pero Skopljak. The latter three detainees were released after the indictments against them were withdrawn on 19 December 1997. Milan Simic was held from 15 February 1998, and provisionally released on 26 March 1998.

150. The number of UN guards in the UNDU has increased to 24. Of these, one is on loan from the Danish Government and the remaining 23 are on loan from the Dutch Government.

151. Due to the increased number of detainees being held in the UNDU, the number of visits by relatives, friends and counsel has risen sharply and the Detention Unit has occasionally faced overbooking of its visiting rooms. Most detainees have been permitted contact with one another, however, contact restrictions are in place in respect of certain of them. A number of detainees avail themselves of a computer, however, no printers are permitted in the cells.

5. Victims and Witnesses Unit

152. The Victims and Witnesses Unit (VWU) is responsible for the recommendation of protective measures for witnesses who will appear before the Tribunal, and provides such persons with counselling and support. In addition, the VWU is charged with making travel, accommodation and financial arrangements for the movement and appearance of witnesses.

153. At the end of 1997, the VWU consisted of 5 staff members: a Coordinator, a Support Officer, a Protection Officer, a Security Field Assistant and an Administrative Assistant. During 1998, the staff was extended to include a Liaison Officer, a Driver/Clerk, an additional Field Assistant, a Support Officer, and two Administrative Assistants. The VWU also includes a "Witness Assistant Program", comprising of a team of nine Witness Assistants who provide twenty-four hour live-in support, information and assistance. This programme has been financially and professionally supported by the EU and the Danish "Rehabilitation and Research Centre for Torture Victims" (RCT) from the time the first court hearings took place in 1995. As of 1 May 1998, the Tribunal assumed financial responsibility for the salaries of the staff participating in this programme. The VWU, the EU and the RCT continue to collaborate in efforts to improve the programme.

154. The VWU is experiencing a steady increase in the numbers of witnesses appearing before the different Trial Chambers. During 1997, 168 witnesses from a significant number of countries were called to The Hague. In comparison, on current figures, it is estimated that more than 400 witnesses will have appeared by the end of 1998.

155. During 1997, the VWU continued to develop programmes, criteria and guidelines for its work. An initial meeting was held between the Witness Units of the ICTY and the ICTR. This meeting laid the foundation for further collaborative work in 1998.

B. Administration

1. Budget and finance

156. The General Assembly, at its 101st plenary meeting on 13 June 1997, decided to appropriate to the Special Account for the Tribunal a total of $27,440,100 net ($29,825,500 gross) for the period 1 July to 31 December 1997, in addition to the amount of $21,146,900 net ($23,655,600 gross) already appropriated for the period from 1st January to 30th June 1997, under General Assembly resolution 51/214. The total appropriation for 1997 amounted to $48,587,000 net ($53,481,100 gross) and included an increase in the authorized staffing level from 337 to 367.

157. Expenditure for the year against the appropriation totalled $36,392,800 net ($40,584.80 gross). This resulted in savings of $12,194,200 net ($12,896,300 gross), representing 24.1% of this appropriation.

158. On 21 October 1997, the Secretary-General submitted his report on the financing of the Tribunal (A/C.5/52/4), which contained the proposed requirements for 1998. These amounted to $64,216,200 net and an additional 204 staff posts.

159. The Report of the Advisory Committee on Administrative and Budgetary Questions (A/52/696), recommended the acceptance of the extra 204 posts, but noted, however, that it expected a slower occupancy rate than predicted. The report recommended a total appropriation of $62,331,600 net.

160. On 22 December 1997, the General Assembly, having considered the Report of the Fifth Committee (A/52/724), adopted resolution A/52/217 approving the appropriation of $62,331,600 net for the Tribunal for the period 1st January to 31st December 1998. The total number of approved staff posts for this period is 646.

2. Personnel

161. The Registrar has delegated authority in the appointment and administration of all staff up to the D-1 level. The Human Resources Section has been divided into the Staff Administration Unit and Recruitment and Training Unit. The number of staff in the entire Section has increased from four to nine persons.

162. Vacancies were advertised on the Internet in addition to the usual United Nations channels and letters to embassies in The Hague. More than 5,000 applications were processed during the year, which is an increase of 1500 applications from the previous year.

163. On average, five to six cases for appointment, placement and promotion have been presented each week to the Appointment and Promotion Board (APB).

164. By 31 July 1998, the total number of staff had increased from 368 to 511 persons; 190 of these were international staff and 321 were locally recruited staff. Fifty-four nationalities are represented among the staff; the percentage of women was 38% among the Professional category and 41% for all staff. The total number of approved staff posts for the period 1 January 1998 to 31 December 1998 is 646.

165. On 30 June 1998, most of the 46 persons seconded by governments to serve as "Experts-on-Mission" ended their assignment to the Tribunal. Similarly, on 31 July 1998, all of the 22 legal assistants seconded by the International Commission of Jurists will end their assignments. There are still approximately 35 interns, who are divided among the three organs of the Tribunal.

166. With the opening of the second and third courtrooms, the need for more short-term conference assistance has increased. The number of short-term appointments (Court Reporters and Conference Interpreters) for the year totalled approximately 450, an increase of almost 200% from the previous year. The number of Special Service Agreements processed this year (for Field Interpreters, Expert Witnesses, Exhumations Project, Witness Assistants, and Temporary Assistants) totalled approximately 575.

3. Conference and language services

167. The support of the Conference and Language Services Section (CLSS) was required to meet the increased demands of the judicial calendar in light of the arrests and voluntary renditions of a large number of accused during the reporting period. The opening of the additional courtrooms and the subsequent increase in judicial activities have led to the division of the 55 staff of the section into: the French Translation Unit, the English Translation Unit (translators and revisers also responsible for translations into the language(s) of the accused and other non-official languages, such as German, Dutch etc.) and the Interpretation unit (18 conference interpreters) providing simultaneous interpretation of all hearings in English, French and Bosnian/Croatian/Serbian.

168. CLSS provides field interpreters for missions across the world. These missions have mainly involved interviews with victims or witnesses of war crimes. In light of the increase in the number of missions, CLSS has accumulated a growing pool of field interpreters who

are selected and tested according to UN criteria and standards, bearing in mind the specific nature of the Tribunal's work.

169. CLSS also provides complete and accurate French and English transcripts of the proceedings only hours after the hearing adjourns. Moreover, as the Tribunal's courtrooms are designed and equipped with bench monitors, English transcripts are done in "real-time", i.e. using technology that allows all participants to follow and interact with the transcript during courtroom proceedings. This sophisticated technology expedites courtroom proceedings because the prompt display of text obviates any argument over questions put to a witness or answers given in response.

4. General services

170. The following units compose the General Services Section: Section Administration, Protocol Unit, Property Control & Inventory and Mail & Pouch Unit, Office Supplies and Receipt & Inspection Unit, Graphics & Reproduction Unit, Local Transportation Unit, Building Management Unit and Procurement & Travel Unit. Statistics following each section show the performance of the Units during 1997.

(a) Administration

171. Under the general supervision of the Chief of Section, the Unit carries out broad administrative support functions including planning and budgeting, coordination and supervision of the day to day activity of the Section as well as special projects in support of the Registry, Chambers and the Office of the Prosecutor. The Unit provides secretarial and administrative support to the Section as well as the scheduling of local transportation and conference rooms.

(b) Protocol Unit

172. Enquiries, both written and verbal, are received by the Unit concerning applications for residence permits; VAT claims; excise duty; applications for purchasing of tax free vehicles; selling of vehicles and other issues related to payment of municipal taxes. The Unit prepares applications for issuance and renewals of Laissez-Passers (LP) and Travel Certificates (TC) and assorted visas on behalf of staff members.

Visas	160
ID Applications	236
Car applications	76
Other	208

(c) Property Control, Inventory/Mail & Pouch Unit

173. The Unit collects, sorts and distributes incoming and outgoing mail, courier packages and pouches on a daily basis, maintaining weekly and monthly accounts of all postage mail and pouch related costs. The Unit also inspects all existing Tribunal assets and applies inventory tags to all non-expendable assets. In addition, the Unit performs periodic asset inventory surveys and prepares asset inventory reports. The Unit is also responsible for preparing cases for review by the Property Survey Board.

Outgoing Mail (by piece)	41923
Incoming Mail (by piece)	72601

(d) Office Supplies and Receipt & Inspection Unit

174. The Unit operates the supply stores; processes requests for supplies; processes all incoming orders of expendable and non-expendable items; reviews items received against purchase orders and requisitions specifications and prepares all R & I reports. The Unit works closely with the Procurement Unit in the processing of invoices for all goods received by the Tribunal.

Inspection Reports	287
Requests for Supplies	299
Delivery of supplies	700

(e) Graphics & Reproduction Unit

175. The Unit receives reproduction requests for judicial and confidential and administrative matters; maintains records of copies made; supervises maintenance contractor teams; produces graphic material for both internal and external presentations, including press bulletins and schematic drawings.

Requests for reproduction	917
Pages reproduced (centrally)	3.5m

(f) Local Transportation Unit

176. The Unit provides chauffeuring services to the President, Judges, the Prosecutor and the Registrar during normal working hours. The Unit also provides back-up support to the Victims & Witnesses Unit in the transport of witnesses. The Unit collects and delivers packages including correspondence to the Diplomatic Corps and Ministry of Foreign Affairs as required, and monitors service requirements of official Tribunal vehicles.

Trips undertaken	1216

(g) Building Management

177. Two additional courtrooms were constructed in 1998, funded by generous donations from Member States. Courtroom II, constructed between January and April of this year, was financed by a donation by the government of United Kingdom of Great Britain and Northern Ireland. The Courtroom held its first proceeding in May and offers 285 m^2 of accommodation. The generous donation of Dfl. 1,630,000 provided for all construction and equipment, while furniture was purchased at a cost of Dfl. 145,000 from the Tribunal's Trust Fund. Courtroom III, constructed between February and June of this year, was financed by a donation-in-kind by the governments of The Kingdom of the Netherlands and The United States of America offers 552 m^2 of accommodation, and was first used on June 29 of this year. The generous donation-in-kind of Dfl. 4,850,000 provided for all construction, equipment and furniture.

178. The Tribunal completed its expansion into the space vacated by the landlord in 1997, and in April of 1998, began occupying an additional 5200 m^2 that had been sublet to the Organization for the Prohibition of Chemical Weapons. In October 1997, the Sarajevo Field Office moved to larger accommodation and expansions have taken place at the Belgrade and Zagreb Offices. Discussions are under way with the Government of the Kingdom of the Netherlands regarding the Tribunal's need for a larger Detention Facility.

Work Orders Completed	858
Major Maintenance Projects	19
Electrical Construction Projects	8

(h) Procurement and Travel

179. The Procurement Sub-Unit is responsible for the administration of all procurement activities for the Tribunal and its field offices. It arranges contractual services; it procures supplies, equipment and services; it monitors and expedites the execution of Purchase Orders and Contracts; it processes invoices for payment; and it renders advice to requisitioners as well as vendors on procurement matters. In addition to its procurement functions, it also undertakes traffic functions in respect of the shipment and insurance of staff members' unaccompanied household goods and personal effects.

180. The Travel Sub-Unit reviews travel requests of all Tribunal staff members, witnesses, Defence counsel and other non-UN personnel travelling on behalf of the Tribunal, to ensure conformity with the applicable rules and procedures. It also makes hotel and car rental reservations for Tribunal travellers and maintains liaison with the official travel service provider and various airline representatives.

Requisitions reviewed & processed	485
Purchase Orders issued	407
Invitations to Bids & Request for Proposals issued	32
Contracts prepared and processed	73
Cases submitted to the Local Committee on Contracts	125
Cases submitted to the Headquarters Committee on Contracts	6
Procurement related Invoices reviewed & processed	1,023
Organizational shipments and staff members' household and personal effects	55
Travel Authorizations (PT8) raised	2,408
Travel related Invoices processed	1,984

5. Electronic support and communications

181. The Electronic Support and Communications Section (ESSC) continues to provide computer, audio-visual and communications technical services to the other units of the Tribunal. The establishment of two additional courtrooms and the increase in personnel in 1998, has necessitated an expansion of the support being provided by ESSC in all areas. A new PABX system was installed during the period to replace the antiquated system that was in place. The Registry network has been upgraded and network cabling is being installed in the new office space. Additional computer equipment is being acquired. Additional staff are being recruited in order to strengthen the support capabilities of the section.

182. Among the major activities of the section during the period is its involvement in designing and coordinating the construction of two additional courtrooms. In addition to three video conferencing projects undertaken during the period, a number of smaller ad hoc audio-visual installation projects were performed to support official receptions for visiting dignitaries including United Nations Secretary-General, Kofi Annan. The section is presently installing an internal video distribution network which will allow personnel to view ongoing proceedings in all courtrooms.

183. General on-site computer and telephone support continues to be provided by the section to other Tribunal units. Instructional videos have been developed for use by the Security section. Multiple editing services for both Prosecution and Defence are available. A new unit, dedicated to the development and implementation of a series of computer training courses, has also been established and has commenced operations.

6. Security and safety service

184. The Security and Safety Service has grown to a total of 90 staff and officers representing 21 different nationalities. All officers have formerly served in the military or police services of their respective countries. The Service continues to provide for the security and safety of the Tribunal premises and the field office in Sarajevo. The responsibilities, however, have been expanded to include the provision of security for the Exhumations Project in Bosnia, the coverage of two additional courtrooms and increased numbers of detainees, and the augmentation of the guard staff at the Detention Unit. In addition, with the Tribunal assuming control of the entire premises and an increase in the number of Tribunal staff, fire safety has become a significantly higher priority for the Service.

7. Library and reference

185. The library of the Tribunal, operational since late 1995, serves as a documentation and research centre for the different organs of the Tribunal, as well as counsel for the Defence. It provides users with information both from its own collection and from material obtained from collections outside the Tribunal, in particular other international law libraries in The Hague.

186. In the course of 1996-1997, the library accumulated a basic collection of the main sources of international law (international humanitarian law in particular) and national law, as well as works of general reference. Late in 1997, the Tribunal secured funding from the European Union to the sum of 380.00 ECU for the purpose of further equipping the library.

187. In addition to the growing library holdings, Tribunal staff now have access to the Internet and to the on-line legal research service, LEXIS/NEXIS.

C. Public Information Unit

188. The reporting period has been characterized by a growing discrepancy between the Public Information Unit's goals and its actual possibilities. The Unit was formerly known as the Press and Information Office. This change of name, which occurred in January 1998, was the first visible step of a broader process. A re-evaluation of the office's operations commenced in the latter part of 1997, and led to its reorganization in the form of the Public Information Unit in the first part of 1998.

1. Evaluation

189. In general terms, the tendencies signalled in the previous annual report continued through the past year. Firstly, the press continued to regularly cover the Tribunal's progress including the proceedings, but paid far more attention to the political aspects of the Tribunal's operations. This was due, presumably, to the increased number of arrests by SFOR forces and of voluntary surrenders.

190. Secondly, interest in the Tribunal from the diplomatic and academic communities grew considerably, resulting in a dramatic increase in the number of visits paid either to the Tribunal itself or its Internet Home Page. Between January and July 1998, 35 groups with a total of 656 persons visited the Tribunal. This may be compared to the 16 groups with a total of 258 visitors counted between August and December 1997. In addition, an average of 30,000 hits per week have been recorded on the Tribunal's Internet Home Page in 1998. This again may be compared to the average of 19,000 hits per week recorded in 1997.

191. The increased number of accused in custody, the increased judicial activity, the greater number of trials in a greater number of courtrooms, and a vastly increased number of legal developments, together placed substantial pressures on the Press and Information Office during the reporting period. Both internal units within the Tribunal and external journalists, diplomats and jurists, were concerned that the Office was not capable, in its then form, in assisting them to follow the developments taking place at the Tribunal on an ongoing basis. Indeed, the Office was experiencing difficulties making public the legal documents, the number of which exploded from 347 during the whole of 1997, to 560 between January and June 1998 alone. In addition, Chambers of the Tribunal was concerned that there was insufficient distinction in the press coverage between its operations and those of the Office of the Prosecutor.

192. It was therefore decided that a thorough reorganization of the Press and Information Office was required. This process dominated the first six months of 1998, and is expected to take full shape as of 1 September 1998.

2. Re-organization

193. In terms of structure, the re-organization unfolded along two lines. Firstly, it was decided that the Chambers and the Office of the Prosecutor should have different spokespersons in order to allow them to be clearly identified and distinguished from each other. While the Office of the Prosecutor is in the process of creating the position, the Chamber's spokesperson is the Head of the Public Information Unit.

194. Secondly, the Public Information Unit itself was re-organised in such a way as to become a pro-active centre of efficient information services aiming at disseminating and fostering a deeper knowledge of the Tribunal's work. The Unit now consists of four sub-units: Press Relations, Public Affairs, Publications and Internet. The following priorities are prescribed for the various sub-units.

(a) Press Affairs

195. While continuing to take care of media logistics (technical facilities, dispatching of releases and scheduling of interviews), this team of at least three staff members will pro-actively work towards better press coverage of the trials and of the Tribunal as a legal body. The strategy is to develop a culture of personal interaction with media representatives, and to prepare weekly, and if possible daily, updates.

(b) Public Relations

196. This sub-unit of at least two staff members will continue to manage the visits programme, while also coordinating official visits and developing materials to support public presentations of the Tribunal, both inside and outside the Tribunal's premises. These presentation materials will include a standard lecture, transparencies, and a video.

(c) Publications

197. The establishment of this sub-unit coincides with the publication (expected in December) of the two first Judicial Reports, which compile legal materials from Chambers issued in the years 1994 and 1995. Work continues on Judicial Reports for the following years and it is envisaged that such reports will be published on a yearly basis as of the year 2000. The team of two staff members comprising this sub-unit will further prepare information folders highlighting various aspects of the Tribunal, and will set up an efficient system to distribute the public documents of the Tribunal.

(d) Internet

198. The Home Page was launched in May 1997, and has proven to be a major channel of information. There is, however, a need to restructure the Home Page to enhance its usability and to expand it's collection of legal materials and other public documents released on-line. The intention is make the Home Page an electronic "registry" of the Tribunal.

Part Two

ACTIONS OF STATES

V. IMPLEMENTATION OF THE GENERAL FRAMEWORK AGREEMENT FOR PEACE IN BOSNIA AND HERZEGOVINA.

A. Introduction

199. The General Framework Agreement for Peace in Bosnia and Herzegovina and the annexes thereto ("Peace Agreement") was negotiated in Dayton, Ohio, and signed in Paris on 14 December 1995. The signatories are the Republic of Croatia, the Federal Republic of Yugoslavia, signing for itself and on behalf of Republika Srpska, and Bosnia and Herzegovina. By signing the Peace Agreement they agree to work to promote peace and stability in the region of the former Yugoslavia, in accordance with the principles and obligations expressed therein.

200. As an institution established to contribute to the restoration and maintenance of international peace and security, the Tribunal is instrumental in facilitating an enduring peace and stability in the former Yugoslavia and, therefore, has a vital role to play and a keen interest in the Peace Agreement. The Peace Agreement reflects this by restating the general obligation of the signatories to cooperate with the Tribunal and creating and imposing on the Parties specific obligations in this regard, thereby supplementing Article 29 of the Tribunal's Statute.

201. In previous reporting periods, the military provisions of the Peace Agreement were largely implemented, resulting in the first enduring cessation of hostilities since the conflict began. Thus, the civilian aspects of the Peace Agreement assumed primary importance and it was to those provisions that the focus of the efforts by the Parties and the international community has since been directed.

202. The Tribunal is a civilian, rather than a military, provision of the international community's overall effort to achieve an enduring peace. The prosecution of persons responsible for serious violations of international humanitarian law removes such persons from their communities, and, if found guilty, ends their impunity and facilitates the

reconciliation of those communities. In addition, through its judicial proceedings the Tribunal establishes a historical record which provides the basis for the long-term reconciliation and reconstruction of the region. The shift in emphasis by the international community from military to civilian implementation, therefore, represented, and continues to present, a unique opportunity for the Tribunal to emerge as a driving force for peace in the region.

B. Applicable Provisions

1. The Peace Agreement

203. The Peace Agreement is designed to facilitate the comprehensive long-term reconstruction of a State that has endured three years of violent and destructive conflict. Two aspects are of particular note. First, the context is one of peace implementation: in addition to the Parties' responsibilities, the international community established both an implementation council and an implementation force ("IFOR") to fulfil certain functions relating to the Peace Agreement. Second, many of the provisions are deemed to be "civilian": measures to reintegrate the population and institutions of the State, both physically and psychologically. As a mechanism directly involved in the second aspect, the Tribunal and the duty to cooperate with it are mentioned throughout the civilian parts of the text.

204. Article IX of the General Framework Agreement states that:

> "The Parties shall cooperate fully with all entities involved with implementation of this peace settlement, as described in the annexes of this Agreement, or which are otherwise authorized by the United Nations Security Council, pursuant to the obligations of all Parties to cooperate in the investigation and prosecution of war crimes and other violation of international humanitarian law." (Emphasis added).

205. Article X of Annex 1-A (Agreement on the Military Aspects of the Peace Settlement) calls for the full cooperation of the parties

> "[w]ith all entities involved in implementation of this peace settlement, as described in the General Framework Agreement, or which are otherwise authorized by the United Nations Security Council, including the International Tribunal for the Former Yugoslavia." (Emphasis added).

206. Article IX (1) Annex 4 (Constitution of Bosnia and Herzegovina) provides that:

> "No person who is serving a sentence imposed by the international Tribunal for the former Yugoslavia, and no person who is under indictment by the Tribunal and who has failed to comply with an order to appear before the Tribunal, may stand as a candidate or held any appointive, or other public office in the territory of Bosnia and Herzegovina."

207. Article XIII(4), Annex 6 (Agreement on Human Rights) provides that:

> "All competent authorities in Bosnia and Herzegovina shall cooperate with and provide unrestricted access to the organizations established in this Agreement...the International Tribunal for the Former Yugoslavia; and any other organization authorized by the UN Security Council with a mandate concerning human rights or humanitarian law."

208. Article III (2) Annex 7 (Agreement on Refugees and Displaced Persons) stresses that:

> "The parties shall give full and unrestricted access...[to] relevant international, ...organizations...with a view to facilitating the work of those organizations...[which are] vital to the discharge of their mandates and operational responsibilities without administrative impediments..."

209. Finally, it should be noted that the Peace Agreement vests the two mechanisms created to assist in its implementation, namely OHR for the civilian provisions and the IFOR for the military provisions, with the final authority on the ground to interpret the provisions concerning respectively civilian and military implementation.[18] Further, Article VI(3)(c) of Annex 1-A provides that IFOR

> "shall have the right to fulfil its supporting tasks, within the limits of its assigned principle tasks. [These supporting tasks] include...assist[ing] international organizations in their humanitarian missions..."

210. Thus, as a military organ with enforcement powers, IFOR had a mandate to assist the Tribunal in its mission: to uphold international humanitarian law through the prosecution of those responsible for serious violations thereof. SFOR succeeded to IFOR's rights and obligations in early 1996. In resolution 1088, the Security Council authorized

> "the Member States acting through or in cooperation with the organization referred to in Annex 1-A of the Peace Agreement to establish for a planned period of 18 months a multinational stabilisation force (SFOR) as the legal successor to IFOR under unified command and control in order to fulfil the role specified in Annex 1-A and Annex 2 of the Peace Agreement;"[19]

2. Further obligations on the parties

211. Throughout the reporting period the Peace Implementation Council[20] (formerly the International Conference on the former Yugoslavia) has continued its practice of bi-annually reviewing the implementation of the Peace Agreement by the Parties[21] and coordinated the involvement of the international community in realising its goals. In previous years the Council, through various documents and subsidiary agreements, reiterated and reminded the Parties of their obligations under the Peace Agreement, thereby adding a 'second tier' of obligations to those contained in the Peace Agreement itself. The membership comprises the six States of the Contact Group (the Federal Republic of Germany, France, Italy, the Russian Federation, the United Kingdom and the United States of America),[22] the States and entities of the former Yugoslavia, other States, and several international organizations with missions in Bosnia and Herzegovina.

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18 Article V, Annex X (Agreement on Civilian Implementation of the Peace Settlement) provides: "The High Representative is the final authority in theatre regarding interpretation of this Agreement on the implementation of the peace settlement." Article XII, Annex 1-A provides that "the IFOR Commander is the final authority in theatre regarding interpretation of this agreement on the military aspect of the peace settlement."

19 Security Council resolution 1088 (1996), para. 18.

20 Conclusions of the Peace Implementation Conference held at Lancaster House, London 8 and 9 December 1995 at paras. 17-18, 20-22. In assuming its responsibilities, the Peace Implementation Council subsumed the International Conference on the Former Yugoslavia.

21 However, a Steering Board of the PIC, comprised of the Canada, the Federal Republic of Germany, France, Italy, Japan, the Russian Federation, the United Kingdom and the United States of America, the Presidency of the European Union, the European Commission and the Organization of the Islamic Conference, and chaired by the High Representative, meets regularly.

22 Formed in May 1994, as a forum for the peace negotiations.

212. Previously, meetings were held in London (December 1995), Rome (February 1996), Florence (June 1996), London (December 1996) and Sintra, Portugal (May 1997). During the reporting period, the PIC held a Plenary meeting on 9 and 10 December in Bonn. The Steering Board held a Ministerial Meeting in Luxembourg on 9 June.

C. Implementation

213. It is a matter of public record that in previous years most of the Parties to the Peace Agreement failed to fulfil the overwhelming majority of their obligations with respect to the Tribunal, both those specifically enumerated in the Peace Agreement and those arising otherwise under international law. The PIC reflected this during previous years in the statements issued at the conclusion of its meetings.[23]

214. The reporting period, however, has been characterised by a substantial improvement over previous years with respect to enforcement of the Tribunal's orders and compliance with obligations under international law.

215. As has already been noted in this report, during the reporting period the number of indictees in custody increased from nine to twenty-nine, one of whom was provisionally released, one of whom is deceased. Ten indictees were transferred to the Tribunal from the Republic of Croatia following their surrender in October 1997. SFOR assisted in the detention of further seven indictees throughout Bosnia and Herzegovina and in the transfer of five indictees who surrendered to international forces in Bosnia and Herzegovina. In addition, SFOR and the International Police Task Force provided support for staff of the Office of the Prosecutor in carrying out mass grave exhumations and executing a number of search warrants.[24] Finally, the High Representative and SFOR took measures against several media that broadcast discriminatory or propaganda material. In one incident, the SRT television network of Republika Srpska edited a tape of a press conference given by the Prosecutor and rebroadcast it, the result being a "gross distortion of the press conference". Following the broadcast, at the request of the High Representative, SFOR seized control of a number of broadcasting facilities in the entity with the aim of "restoring television service under management whose behaviour reflects international norms of professional media conduct".[25]

216. Perhaps most markedly, following the political changes in Republika Srpska and the appointment of a new Prime Minister, the authorities of that entity have shown a willingness to cooperate with the Tribunal. Prime Minister Dodik has urged indicted individuals to surrender to the Tribunal, while law enforcement agencies within the entity have assisted the Prosecutor in carrying out her work. In the first such decision by the Tribunal, one detainee was provisionally released, following, inter alia, the receipt of a bail bond from Republika Srpska and a guarantee that it would ensure that the detainee reappeared at the Tribunal for trial.[26]

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23 See, for example: the Concluding Document of the Rome Summit "Agreed Measures", 18 February 1996, at para. 5; Chairman's Conclusions of the Florence Peace Implementation Council Mid-Term Review Conference 13 and 14 June 1996, at paras. 37-39; Conclusions of the London Peace Implementation Conference 1996, "Bosnia and Herzegovina 1997: Making Peace Work" at pages 11-15; Communiqué -Political Declaration from Ministerial Meeting of the Steering Board of the Peace Implementation Council, Sintra,, at paras. 32-38.

24 See Part One, Section III (B), (F) and (G) for more detailed information on these actions by SFOR and IPTF. IPTF was established pursuant to Annex 11 of the Peace Agreement and Security Council resolution

25 SFOR Operation Joint Guard Press Release 1 October 1997, 0850 hrs; OH Press Release 1 October 1997.

26 The Prosecutor v. Miljkovic and Others, IT-95-9-PT. Milan Simic was provisionally released on 26 March 1998, and will surrender himself into the custody of the Tribunal two weeks prior to the commencement of his trial.

217. These significant changes have coincided with an apparent willingness on the part of the High Representative and the Commander of SFOR to use their authority under the Peace Agreement to enforce the Peace Agreement, a willingness that was notably lacking in previous years with respect to the provisions concerning the Tribunal.[27]

218. Nevertheless, while the events described above are to be welcomed, there is no ground for complacency. Indictees continue to remain at liberty, the politics of hatred and divisions remain legitimate to many, while States have proved unwilling or unable to provide the Prosecutor with funds to participate fully in the Rules of the Road project. If the Prosecutor is unable to review cases submitted to her, the Rules of the Road process will falter and those who seek to abuse it by using it as a means of excluding political or ethnic opponents from political office will succeed in destabilising the reintegration of the population and political structures of Bosnia and Herzegovina. It is also particularly worrisome that the Federal Republic of Yugoslavia been able to continue to ignore its obligations under international law with impunity, principally through its persistent refusal to surrender the three indicted persons believed to be residing on its territory.[28]

219. The Tribunal welcomes, therefore, the statements by the PIC acknowledging that much remains to be done. Following its Bonn meeting, the PIC, inter alia, criticised local authorities who employed the Rules of the Road process for political ends and called for adequate funds to be made available to the Prosecutor to facilitate the efficacious implementation of the project. The PIC further:

> "Demand[ed] that the competent authorities take immediate steps to execute arrest warrants for all indicted persons under their jurisdiction and to surrender them to the ICTY. This demand is made with particular reference to Republika Srpska and the federal Republic of Yugoslavia. The Council recalls that domestic law prohibiting the surrender of indictees to the ICTY is incompatible with mandatory United Nations Security Council resolutions adopted under Chapter Seven of the Charter of the United Nations and Article IX of the [Peace] Agreement."[29]

220. In the Declaration issued after the Luxembourg meeting, the Steering Board welcomed progress in the arrest and transfer of indictees and in efforts to gain access to exhumation sites and to trace persons missing from the war. It noted, however, that

> "a large number of indictees remains at large...the competent authorities must take immediate steps to execute arrest warrants for all indicted persons under their jurisdiction, and to surrender them to the ICTY. A fair trial of those indicted is indispensable for the process of ethnic reconciliation..."

221. These statements demonstrate that the PIC and its members are fully cognisant of the role that the Tribunal could and should play in the reconciliation of the former Yugoslavia, and of the importance of facilitating the full realisation of that potential. Yet, they are similar to statements made by the PIC during previous reporting periods. What has changed, then, to bring about the increased level of compliance, is that the international community has finally acknowledged that to secure lasting peace in the former Yugoslavia, a

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27 See the 1996 Yearbook and previous annual reports.
28 Case number IT-95-13-R61: Prosecutor v. Mrksic, Radic and Sljivancanin
29 Bonn Peace Implementation Conference 1997 – Bosnia and Herzegovina 1998: Self-sustaining Structures, at paras. 4a-c.

genuine and long-term commitment is required, and has begun to act with the resolve that accompanies such commitment. Support for political developments in the Republika Srpska, together with action to remove indictees from the daily life of Bosnia and Herzegovina, should create a more stable foundation for real peace. It should afford an opportunity for the Tribunal's work to become known within the former Yugoslavia, for the perpetrators to be identified and for the victims to have their suffering recorded in history. Only then can there be a return to respect for the rule of law, which is perhaps the most critical prerequisite for civil society.

222. In this connection, the Tribunal welcomes all surrenders of indictees that occurred during the reporting period. While it is not clear how many were motivated by a genuine faith in the power of the law, rather than fear of arrest by international forces, or other extraneous factors, such acts indicate that, at the very least, the Tribunal is regarded as impartial, or alternatively, that the rule of law and justice are viewed as a necessary part of the peace process. In itself, that is a tribute to how much has been achieved by the Tribunal in the past five years. It is now unquestionably established as a component in the peace process, a process that seeks to replace a violently enforced culture of might with one of right.

223. However, the complexities entailed in "peace building" should not be used to shield a lack of will to enforce international law. The human rights violations that occurred in the former Yugoslavia offend against the most basic legal and moral tenets. All States have a duty to prevent them, as by their savagery, they stain all of humanity. Yet, in the former Yugoslavia, until recently the norm was one of non-compliance by States and entities, while in Bosnia and Herzegovina international forces established and operated under Chapter Seven of the United Nations Charter were unwilling to enforce the law of the United Nations. Indeed, even today, the majority of the perpetrators remain at liberty. It is completely unacceptable that thirty-one indictees remain free, some nearly four years after indictment. Further, of those arrested or surrendered, all were at liberty until very recently, and many, if not all, could have been detained sooner. As their victims testify before the Tribunal, it is only right to ask why this was not done.

224. Moreover, as events develop in Kosovo, the Tribunal is reminded of the fall of the safe area of Srebrenica, an event that occurred some two years after the Tribunal's establishment. The Tribunal strongly urges the international community to show in other regions of the former Yugoslavia the same resolve now being demonstrated in Bosnia and Herzegovina.

D. Truth and Reconciliation Commission for Bosnia and Herzegovina

225. The Tribunal - through the Office of the Prosecutor and the President - has been consulted on the proposed establishment of a Truth and Reconciliation Commission for Bosnia and Herzegovina. The project to found and operate such a mechanism is being developed by the United States Institute for Peace, in conjunction with the Joint Presidency of Bosnia and Herzegovina. It is anticipated that the Commission will be established in law in October 1998, or shortly thereafter, and will commence hearings in March 1999, or shortly thereafter. The hearings are expected to last eighteen months, after which the Commission will issue a report of its findings. Considering the proposed mandate of the Commission, and the nature of truth commissions relative to criminal prosecutions, the Tribunal has a number of concerns about the potential effects of the Commission, as presently proposed, on its ability to discharge its functions under resolution 827 (1993). These include such issues as access to witnesses, availability and admissibility of evidence and potential amnesty. The Tribunal is currently discussing these matters with the High

Representative and other interested agencies and is preparing a position paper on the proposal.

VI. CONTACTS OF THE TRIBUNAL WITH GOVERNMENTS AND INTERNATIONAL ORGANIZATIONS

226. Lacking an autonomous enforcement agency, the Tribunal is unable to give effect to the plethora of orders, arrest warrants and decisions that it issues. Enforcement is dependent, therefore, on those entities that possess the legal and logistical capacity to act on the international stage. These entities are the States and organizations of the nascent international community. In joining the United Nations, they agree to accept and carry out the decisions of the Security Council, such as the one that established the Tribunal. Without their support and cooperation, the Tribunal cannot effectively discharge its mandate. In many respects, therefore, the umbilical cord is still attached. State support is the Tribunal's oxygen supply.

227. That responsibility gives States a stake in success of the Tribunal. States are expected to fulfil their obligations under international law, and in the case of the former Yugoslavia, under the Dayton peace agreement, to provide the structured and systematic support necessary to sustain the Tribunal. States must ensure that their domestic law provides the necessary framework for their cooperation with the Tribunal. Within that framework, there are various elements of cooperation. Lacking an incarceration facility, the Tribunal expects States to provide facilities to imprison persons whom the Tribunal convicts. Lacking control over any territory or a protection agency, the Tribunal expects States to relocate witnesses who are at risk because of the fact that they have assisted the Tribunal. Lacking a police force, the Tribunal expects States to help its investigators execute search warrants and locate witnesses. Most importantly in practical terms, the Tribunal expects States to fill the vacuum left by its inability to arrest indictees.

228. This relationship is, therefore, the crucial distinction between the Tribunal and national or regional inter-State courts, and its existence requires that the Tribunal seek and maintain contacts with Governments and international organizations. As the head of the Tribunal, the President has sustained the work of her predecessor, both in continuing existing alliances between the Tribunal and agencies and in initiating and developing a significant number of new ones.

229. On 9 and 10 December 1997, the President represented the Tribunal at the annual Plenary meeting of the Peace Implementation Council, the body established together with the Office of the High Representative in December 1995, to coordinate, oversee and review the implementation of the General Framework Agreement for Peace in Bosnia and Herzegovina.[30] In her statement, President McDonald urged the members of the Council to focus their efforts on finding solutions to the obstacles to peace, rather than exclusively on identifying those obstacles. She pressed the members of the Council to use the capacity and the mandate that they possessed, through the High Representative and the Stabilisation Force, to address the effects of the refusal by the Parties to the Peace Agreement to comply with provisions relevant to the Tribunal and the prosecution of those responsible for committing crimes during the conflict. During and after the Plenary, the President met with representatives of the Governments of Albania, Bosnia and Herzegovina, Canada, the Czech

30 Conclusions of the Peace Implementation Conference held at Lancaster House, London 8 and 9 December 1995 at paras. 17-18, 20-22. In assuming its responsibilities, the Peace Implementation Council subsumed the International Conference on the Former Yugoslavia.

Republic, Egypt, Finland, the Holy See, Hungary, Ireland, Japan, Pakistan, the United Kingdom and the United States of America. There were further discussions between President McDonald and the High Representative and with various other agencies involved in the peace process in the former Yugoslavia, including the European Union. All reiterated the strong support of their Government or organization for the work of the Tribunal and stressed its role in the peace process in the former Yugoslavia.

230. On 7 January, the United States Ambassador at Large for War Crime Issues, Mr. David Scheffer, and the American Ambassador to The Netherlands visited the Tribunal to discuss a variety of issues, principally ways of assisting the Victims and Witnesses Unit. In furtherance of the activities of the Working Group established by the President to provide more expeditious trials through amendment of the Rules of Procedure and Evidence, the President asked Ambassador Scheffer if it would be possible to discuss in more depth United States proposals for trial management. President McDonald subsequently met with various members of the Government of the United States in Washington in early February. In addition to trial management, the President sought the support of the Government for the Tribunal's proposal that the United Nations should elect additional Judges, a measure which is perhaps the most efficacious way of expediting judicial proceedings.

231. The President travelled to United Nations Headquarters in New York between 10 and 14 February. She met with United Nations Secretary-General Mr. Kofi Annan and the Under Secretary-General for Legal Affairs, the Legal Counsel, Mr. Hans Correll. On 12 February, she addressed a special session of the Security Council to request the election of additional judges, In her speech, the President detailed the need for the expanded capacity, referring to the increasing judicial activity at the Tribunal. A detailed proposal was subsequently submitted by the Tribunal for consideration by members of the Council. President McDonald returned to the Security Council in early May to discuss outstanding issues related to this matter. Shortly thereafter, the Security Council adopted resolution 1166 amending the Statute of the Tribunal to provide three additional Judges.

232. On 11 February, the Swiss Mission to the United Nations hosted a luncheon at which the President spoke, addressing delegations form Austria, Belgium, the Czech Republic, Hungary, Germany and Spain. This occasion provided an opportunity for the President to explain to the representatives of those States the need for cooperation with the Tribunal, in general terms and with reference to specific areas where cooperation was and remains critical: the adoption of implementing legislation and the conclusion of agreements for the enforcement of sentences and the relocation of witnesses.

233. Also while in New York, President McDonald met privately with members of the Governments of Brazil, China, Costa Rica, France, Gabon, Gambia, Germany, Japan, Portugal, the Russian Federation, Sweden, the United Kingdom, the United States of America, as well as Bosnia and Herzegovina, Croatia, the Federal Republic of Yugoslavia and Slovenia. Each of the government representatives agreed with the President that the Tribunal, in seeking to render justice, plays a pivotal role in the international community's efforts, led by the United Nations, to promote respect for the rule of law as a means of building stable societies, both in the former Yugoslavia and throughout the world. The Chargé d'Affaires of the Federal Republic of Yugoslavia, Mr. Vladislav Jovanović, however, inter alia, reiterated his Government's position that it is constitutionally barred from transferring indicted persons from its territory to the custody of the Tribunal. The President repeated her request that the Federal Republic of Yugoslavia adopt implementing legislation to comply with its obligations under international law, obligations that override any obstacles to cooperation with the Tribunal – actual or perceived- that may exist in any national legislation. In this regard, it is worth emphasising that all States are under an incontrovertible duty in international law to cooperate fully with the Tribunal. The signatories to the General Framework Agreement for Peace in Bosnia an Herzegovina are

further specifically obligated to cooperate with the Tribunal. Where such cooperation relates to the arrest or surrender of individuals sought by the Tribunal, the State concerned is required to facilitate such arrest or surrender and to transfer them to the Tribunal. Such an obligation applies to the State with respect to all individuals within its territory or legal control. Provisions of municipal law that purport to override these obligations does not in any way vitiate the responsibility of the appropriate State or international organization to execute any relevant order issued by the Tribunal.

234. On 19 February, the President travelled to Paris at the invitation of the Government of France. Over the following two days, she met with the Minister of Justice, Mme. Elizabeth Guigou, and the Minster of Foreign Affairs, M. Hubert Védrine, and with the Diplomatic Counsellor to the President of the Republic, M. Jean David Lévitte, and participated in an informal cross-Government working group on assistance to the Tribunal. The series of meetings was constructive: France's support for the Tribunal was re-iterated on a number of occasions and progress was made on an agreement between France and the Tribunal on the enforcement of sentences. France offered other forms of assistance, including support for the proposal for additional Judges as it passed through the Security Council. President McDonald was also able to have a highly productive meeting with the President of the Court de Cassation, M. Pierre Truche, where both Presidents considered various types of amendments to the Tribunal's Rules of Procedure and Evidence.

235. Minister Védrine paid a follow-up visit to the Tribunal on 16 March, the Vice-President, Judge Mohamed Shahabuddeen, standing in for the President in her absence.

236. The President's office has maintained regular contact with the senior members of OHR, exchanging information on a variety of relevant issues. On 26 and 27 March, President McDonald travelled to Brussels and to Mons to meet with the High Representative, Mr. Carlos Westendorp, and the Supreme Commander Europe of the North Atlantic Treaty Organization, General Wesley Clark.[31] As the final authority with respect to the implementation of the civilian aspects of the Peace Agreement, Mr. Westendorp stressed the importance that he attaches to the work of the Tribunal. He explained his recent actions, taken under the Peace Agreement, to enforce compliance with its provisions in instances where the Parties had refused to perform their obligations. From a military perspective, General Clark assured President McDonald that he was fully committed to the peace process and to creating conditions in which the enforcement of the Tribunal's orders would be enforced. Both offered to provide extensive logistical and organizational assistance to the President before and during her proposed visit to the former Yugoslavia, anticipated to occur in late 1998.

237. Between 12 and 17 May, the President attended an International Symposium on the Establishment of an International Criminal Court at the International Law Institute of Peking University. While there, she met with the Deputy Foreign Minister of the People's Republic of China, Mr. Wang Guangya, and the Director of the Foreign Ministry's Department of Law and Treaties, Mr. Liu DaQun, in addition to various other members of the Government, to consider a number of issues of cooperation, in particular the need for China to adopt implementing legislation. She also had discussions with the representative of the People's Congress and former President of the Supreme People's Court of China, Mr. Ren JianXin, and Mr. Luo HaoZai, Vice-President of the Supreme People's Court, China.

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31 The High Representative and the Supreme Commander are responsible, respectively, for monitoring the implementation of the Peace Agreement and for overseeing the operations of the NATO-led SFOR. See London 1995 Conclusions at paras. 17-18, Peace Agreement Annex 1-A and Security Council resolution 1088.

238. On 21 May, the recently appointed Deputy Secretary-General of the United Nations, Ms. Louise Fréchette, visited the Tribunal. Considering that in March 1997, the Secretary-General made a visit to the Tribunal early in his tenure, it is gratifying to see such commitment to the Tribunal. During her visit, Ms. Fréchette also met with the Judges, the Registrar and Prosecutor and received an extensive briefing and overview on the activities of the Tribunal.

239. Five days later, members of the Advisory Committee on Administrative and Budgetary Questions made a two-day visit to the Tribunal. In a series of speeches, tours and meetings, the President and staff of the Tribunal endeavoured to explain the complex nature of the Tribunal's mandate and the problems that have been encountered and overcome in the past five years in transforming the words of resolution 827 into an operating international criminal court.

240. Article 12 (2) of the Statute of the International Criminal Tribunal for Rwanda provides that the members of the Appeals Chamber of the Tribunal shall also serve as member of the Appeals Chamber of the ICTR. Pursuant to this provision, the Judges of the Appeals Chamber travelled to the seat of the ICTR in Arusha Tanzania to attend the Fifth plenary Session of the ICTR, from 1 June through 8 June. Following the conclusion of the Plenary, at the invitation of the Deputy Minster of Justice, Mr. Gerald Gahima, President McDonald visited Rwanda, in her dual capacity as a judge of the ICTR and as President of the ICTY. Following an initial meeting with the Minster of Justice, M. Faustin Ntezilyayo, Deputy Minster Gahima, and the General Prosecutor of the Supreme Court, M. Simon Rwagasore, President McDonald attended a reception at which she held discussions with the Minster for Gender, Family and Social Affairs, Ms. Aloysie Inyumba and various other members of the Government and various Ambassadors to Rwanda. The following day, she met the President of Rwanda, M. Pasteur Bizimungu. The President also had an opportunity to speak with survivors of the genocide and was taken on a visit to Murambi in Nyamagabe Commune. At the site, which has been left intact as a memorial to those who were killed there, she was briefed on how the genocide was organized in Murambi and was advised by the local Prefect and the Bourgmestre that it was believed that thirty-five to fifty thousand individuals were killed at the site. The President would like to thank the Government for organizing such a comprehensive and affecting visit to Rwanda.

241. On 16 June, the President attended the United Nations Diplomatic Conference of Plenipotentiaries on the Establishment of an International Criminal Court in Rome. In her statement, she urged the delegates to

> "look long and hard at the experiences of the International Criminal Tribunal for the former Yugoslavia and the International Criminal Tribunal for Rwanda as they have grown into adulthood. The *ad hoc* Tribunals are a repository of a wealth of information concerning the application of international humanitarian and international criminal law that should not be overlooked."

242. In particular, the President stressed the importance of concluding a treaty that creates an unequivocal obligation on the signatories to comply with orders of the proposed Court and that provides for separate and dissenting opinions. She emphasised the need to consider for election persons with prior judicial experience. Also, she strongly recommended that when drafting the Rules of Procedure and Evidence, input should be sought and welcomed from the Judges, as well as from the two existing Tribunals.

243. Prior to her election as President, Judge McDonald addressed the August 1997 session of the Preparatory Committee for an International Criminal Court, meeting in New

York. Representatives of the Registry addressed the December 1997 and March/April 1998 sessions. As noted above,[32] the Prosecutor also addressed the former session.

244. Throughout the reporting period, moreover, the President participated in a number of events related to the establishment of the ICC, such events being intended to raise awareness and promote discussion of issues pertaining thereto. These included a "European Symposium for the Establishment of an International Criminal Court", in Brussels in November, organized by No Peace Without Justice (an international committee of parliamentarians, mayors and members of the public supporting the creation of an international system of justice), two roundtable discussion groups in January and July, at the T. M. C. Asser Institute in The Hague, and a conference organised by the Aspen Institute Justice and Society Program in Washington in April.

245. Courtrooms II and III were inaugurated during the reporting period and are now in daily use. On 5 May, the Attorney General of the United Kingdom, Sir John Morris, joined the President at the inauguration ceremony for Courtroom Two, accompanied by the United Kingdom Ambassador to The Netherlands and members of the Government of the United Kingdom. Representatives from Canada, The Netherlands and the United States, including the Foreign Minister of The Netherlands, Mr. Hans van Mierlo, the Ambassadors of Canada and the United States to The Netherlands, and Ambassador David Scheffer, attended the inauguration of Courtroom Three on 12 June. At both of these ceremonies, the President paid tribute to the remarkable support that the donor States had provided the Tribunal, both through the courtrooms and a variety of other forms of assistance.

246. In addition, throughout the reporting period, the President hosted visits by the Ambassadors of Bulgaria, Chile, Greece, Ireland, Italy, Luxembourg, Norway, the Russian Federation, Switzerland, the United Kingdom and the United States.

247. Perhaps the most powerful tool at the disposal of the Tribunal is international public opinion. Ensuring that peace and reconciliation take root in the former Yugoslavia, and that the culture of impunity is eradicated there and throughout the world, requires that the Tribunal's activities and accomplishments are disseminated as widely as possible. Moreover, it is only if the general public is able to understand the principles that led to the establishment of the Tribunal, and which its daily operation seeks to vindicate, that pressure can be applied to States through national forums, for example, in States' legislatures. It is for this reason that President McDonald met with numerous journalists throughout the year. Two visits were of particular note. On 14 April a group of journalists from the Federal Republic of Yugoslavia visited the Tribunal. On 4 April, the President attended a lunch hosted by the Washington Post Overseas Writers' Group, at which journalists from a variety of American media were present. Both of these occasions provided opportunities to explain at length the work of and the principles underpinning the Tribunal and allowed the president to answer reporters' questions and concerns regarding the Tribunal. All participants agreed that the meetings were very worthwhile. It is hoped that similar activities can be organized in the future.

VII. ENACTMENT OF IMPLEMENTING LEGISLATION

248. As noted in previous years, the Tribunal relies heavily not just on the cooperation of States of the former Yugoslavia but on all States for support. Indeed, the Tribunal operates under the assumption that States will provide their full and unreserved support. In order to

32 See Part One, Section III (I).

enable this cooperation, the adoption by States of the legislative, administrative and judicial measures necessary for the expeditious implementation of the Tribunal's orders is of crucial importance. Such measures are mandatory under Security Council resolution 827 (1993). Article 29 of the Tribunal's statute establishes the principle of cooperation between States and the Tribunal in the investigation and prosecution of persons accused of committing serious violations of international humanitarian law. Rule 58 of the Tribunal's Rules of Procedure and Evidence restates this principle and confirms that the obligations on States stemming from the Statute shall prevail over any legal impediment to the surrender or transfer of accused to the Tribunal.

249. During the reporting period, no further States had enacted implementing legislation enabling them to cooperate with the Tribunal. Consequently, as reported in 1996 and 1997, 20 States have enacted implementing legislation. A number of States have indicated that they do not require implementing legislation to carry out their responsibilities. In addition, several States have indicated their intention to adopt implementing legislation.

250. In an attempt to assist States which had indicated their intention to adopt legislation and other States which had not yet undertaken any action, in July 1998, the President sent a note to the representatives of those States, with an annex containing a set of tentative guidelines for the implementation of Security Council resolution 827 (1993). In order to reflect the changes in the Rules since February 1995, the Registry revised an earlier version of the tentative guidelines for national implementing legislation, taking into account new developments and implementing legislation adopted by States.

VIII. ENFORCEMENT OF SENTENCES

251. Article 27 of the Tribunal's Statute states that sentences of imprisonment imposed by the Tribunal on a convicted person be served in a State designated by the Tribunal from a list of States that have indicated to the Security Council their willingness to accept such persons.

252. The Registry has drafted a model agreement on the enforcement of sentences, which sets out the terms and conditions that should govern the acceptance of convicted persons by States. The model agreement provides that the Registrar will request a particular State to accept a convicted person to serve his sentence in that State's prisons. Under the agreement, the State will not be bound by such a request but will be in a position to make a case-by-case assessment. Once the prisoner has been accepted and transferred, the enforcing State will be bound by the duration of the sentence imposed by the Tribunal. Subject to the supervision of the Tribunal, the conditions of imprisonment will be in accordance with domestic law.

253. During the reporting period, the workload of the Tribunal has increased considerably. Without pre-empting the outcome of the cases that are drawing to an end, an increased need for States that are willing to enforce the sentences of the Tribunal has been anticipated. On 24 April 1998, Norway signed an agreement, resulting in a total of three States having signed agreements: Italy, Finland and Norway.

254. The following States have indicated their willingness to enforce sentences of the Tribunal, either to the Security Council, the Secretary-General or the President of the Tribunal, although no agreement has yet been concluded. These are Bosnia and Herzegovina, Croatia, Denmark, Germany, the Islamic Republic of Iran, Pakistan and Sweden. A number of those States have indicated that they would accept prisoners subject to certain conditions (e.g., only if their own nationals or residents are concerned or only if a limited number or prisoners are involved).

IX. VOLUNTARY CONTRIBUTIONS

A. States

1. Cooperation of the host State

255. During the reporting period, the authorities of the Netherlands have continued to provide active support to the work of the Tribunal. Apart from the numerous forms of assistance rendered pursuant to the provisions of the Headquarters Agreement, the Government of the Netherlands has made very substantial voluntary contributions to essential projects of the Tribunal.

256. The Ministry of Foreign of Affairs contributed funds for the major part of the construction and equipping of a functional main courtroom, inaugurated on 12 June 1998. The Tribunal would like to take this opportunity to express its appreciation to the Government of the Netherlands for its generous donation, which will be of crucial importance for the achievement of the Tribunal's mandate.

257. In addition, the Dutch Government through the Minister of Development Cooperation has made a generous cash donation in support of the Tribunal's Victims and Witnesses Unit Project for 1998. During the reporting period, the host country continued to contribute the services of three gratis expert personnel, allowing the funds for a vacant staffing post to be used for short-term technical assistance. Other forms of cooperation and support provided by the Government of the Netherlands include the following: the safety and security of both the premises of the Tribunal and staff, the provision of detention facilities, the loan of prison guards, the transportation and escort of detainees and the services of a Forensic Science Laboratory.

2. Gratis personnel provided by Governments or organizations

258. Throughout the reporting period, the Tribunal has continued to benefit from the services of gratis personnel, that is, personnel provided at no cost to the United Nations by donor Governments or non-governmental organizations. Gratis personnel assigned to the Tribunal provide expertise in non-traditional fields of work for which human resources are not readily available within the United Nations system.

259. On 15 September 1997, the General Assembly adopted resolution 51/243, requesting the Secretary-General to phase out expeditiously type II gratis personnel. To implement this resolution, the Tribunal allows the underlying agreements with donors of personnel to lapse in the course of 1998, that is, not to extend these agreements upon their "natural" expiration. However, as a transitional measure, on 7 November 1997, the Under Secretary-General for Management allowed the Office of the Prosecutor to temporarily accept additional gratis personnel until 30 June 1998.

260. In June 1998, a total of 64 gratis personnel were assigned to the Tribunal, contributed by a total of 10 Governments (Canada, Denmark, Finland, Italy, Netherlands, Norway, Sweden, Switzerland, United Kingdom and United States) and two non-governmental organizations (the International Commission of Jurists and the Open Society Institute).

3. Monetary contributions and contributions in kind

261. In its resolution 47/235 of September 1993, the General Assembly invited Member States and other interested parties to make voluntary contributions to the Tribunal in cash and in other form of services and supplies acceptable to the Secretary-General.

262. As at 23rd April 1998, the Voluntary Fund had received approximately $14.2 million in contributions to the Tribunal's activities:

Contributor	Contribution (United States dollars)
Austria	100 000
Cambodia	5 000
Canada	988 157
Chile	5 000
Cyprus	2 000
Denmark	213 715
EU/Carnegie Foundation	342 555
Hungary	2 000
Ireland	121 677
Israel	7 500
Italy	2 080 049
Liechtenstein	4 985
Luxembourg	100 000
Malaysia	2 500 000
Malta	1500
Namibia	500
Netherlands	2 247 662
New Zealand	14 660
Norway	191 283
Pakistan	1 000 000
Portugal	10 000
Saudi Arabia	300 000
Slovenia	10 000
Spain	13 725
Sweden	31 724
Switzerland	230 241
United Kingdom	2 485 094
United States of America	1 500 000

263. Member States, organizations and companies have contributed a variety of cash and in-kind donations to the Tribunal over the course of the reporting period. The Government of Switzerland loaned five 4x4 vehicles for use by the Tribunal's Sarajevo Field Office in connection with the 1997 exhumation project. On 27 January 1997, the Open Society Institute contributed a subscription to the Lexis-Nexis legal database, valued at $100,000. The Legal-Nexus service was for use between 1 January and 31 December 1997. The

Coalition for International Justice provided $108,000 for the assessment of potential prosecution cases submitted by national governments. The Governments of the United Kingdom, the Netherlands, the United States of America, and Canada, provided a total of $2,774,400 for the construction of two additional courtrooms.

264. The EU, through the International Rehabilitation Council for Torture Victims, contributed $440,500 for the provision of counselling and support services for witnesses appearing at the Tribunal. The British Foreign and Commonwealth Office donated various books on international law and human rights documentation to the Library of the Tribunal. The New Hampshire Criminal Justice Resource Centre contributed audio visual and computer equipment to the Tribunal in the form of twenty-five cameras, one bubble jet printer, five global positioning systems (valued at $15,000), 4 desktop computers (valued at $6,700) and, most recently, evidence documentation material (valued at $300), which will be used by the Office of the Prosecutor.

265. In addition, the Government of the United States of America has pledged a package of contributions totalling $1.075 million. This amount has been earmarked as follows: $400,000 for investigations into Kosovo; $400,000 for the translation of a very large quantity of potential evidentiary material in Bosnian/Croatian/Serbian; and $275,000 for the ongoing translation and review of national case files submitted by authorities in the former Yugoslavia.

B. The European Union

266. EU support for the work of the Tribunal was provided through grants of financial resources for different projects by non-governmental organizations. These projects included the Legal Assistants Programme operated by the International Commission of Jurists, providing 22 Legal Assistants to support the work of the Registry and the Chambers, which ended on 31 July 1988. The Tribunal is most grateful for this strong support over more than three years.

267. Another significant contribution of the EU involves the donation of funds, through the offices of the RCT in Denmark, to the VWU. The "Witness Assistant Program" was financially and professionally supported by the RCT until 30 April 1997, when the Tribunal assumed responsibility for the staff participating in this programme. The RCT is now providing research and consultancy support on how the service to the witnesses could be improved. Counselling services by a specialist trauma consultant have been provided for the Witness Assistants.

268. The EU also made a substantial contribution in relation to the Tribunal's library, helping it to accumulate a collection of the main sources of international and national law, as well as providing access to electronic information systems. This project was carried out by the Carnegie Foundation in cooperation with the Peace Palace Library and the T.M.C. Asser Institute.

269. Other projects by non-governmental organizations with EU support helped document war crimes in Bosnia and raised public awareness of the work of the Tribunal in and outside the territory of the former Yugoslavia.

270. The Tribunal expresses its appreciation to the European Union, the European Commission as well as the European Parliament for their valuable and active support.

Part Three

COOPERATION WITH THE INTERNATIONAL CRIMINAL TRIBUNAL FOR RWANDA

X. COOPERATION WITH THE INTERNATIONAL CRIMINAL TRIBUNAL FOR RWANDA

271. In response to the "overwhelming evidence to prove that acts of genocide against the Tutsi ethnic group were committed by Hutu elements in a concerted, planned, systematic and methodical way...",[33] and following a request from the Government of Rwanda, the Security Council, acting Under Chapter Seven of the Charter of the United Nations, created the International Criminal Tribunal for the Prosecution of Persons Responsible for Genocide and Other Serious Violations of International Humanitarian Law Committed in the Territory of Rwanda and Rwandan Citizens Responsible for Genocide and Other Such Violations Committed in the Territory of Neighbouring States between 1 January and 31 December 1994 ("ICTR"). Security Council resolution 955 (1994), adopted on 8 November 1994, established the ICTR and contained its Statute.

272. As noted above[34], the Judges of the ICTY Appeals Chamber also serve as Judges of the ICTR Appeals Chamber. The Appeals Chamber Judges, thus, attended the Fifth Plenary Session of the ICTR in Arusha in June. Among the topics discussed was cooperation between the ICTR and the ICTY. President McDonald proposed that the two Tribunals should work together to share information, resources and experiences and that this collaboration should occur at all levels of the Registry and Chambers (the two Tribunals share a Prosecutor). The proposal received unanimous support, it being agreed that President McDonald would coordinate areas of cooperation with the President and the Registrar of the ICTR, respectively, Judge Laity Kama and Mr. Agwu Okali, and with the Registrar of the ICTY. It is anticipated that a comprehensive review of potential areas of collaboration between the Tribunals will be conducted in August 1998, and that enhanced communication, information exchange and other forms of substantive assistance will follow.

273. The rationale behind increasing cooperation is four-fold. First, five Judges of the ICTY are also Judges of the ICTR. It is axiomatic that the experience gleaned in one capacity should, where appropriate, be applied to the other. Second, during the reporting period, the ICTR Appeals Chamber was for the first time seized of judicial matters. To date, the Chamber has issued two Decisions, summaries of which were pronounced in the Chamber's first sitting, in Arusha following the Plenary.[35] One further matter remains pending.[36] Moreover, it is anticipated that there will be a substantial increase in the number of appeals before the Chamber, as ICTR Trial Chambers will render at least one Judgement and perhaps one or two additional trial will be completed, before the end of 1998. Further, requests for leave to appeal are expected to be made more frequently and a third ICTR Trial Chamber will shortly be appointed. It is, therefore, essential that the ICTR Appeals Chamber

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33 Letter Dated 9 December 1994, from the Secretary-General Addressed to the President of the Security Council. 9 December 1994 S/1994/1405.

34 See Part Two Section VI above.

35 Decision On The Admissibility Of The Prosecutor's Appeal From The Decision Of A Confirming Judge Dismissing An Indictment Against Théoneste Bagosora And 28 Others, Prosecutor v. Théoneste Bagosora And 28 Others, Case No. ICTR-98-37-A, 8 June 1998; Decision On Appeals Against The Decisions By Trial Chamber I Rejecting The Defence Motions To Direct The Prosecutor To Investigate The Matter Of False Testimony By Witnesses "E" And "CC", Prosecutor v. Georges Anderson Nderubumwe Rutaganda, Case No. ICTR-96-3-T, 8 June 1998.

36 On 29 April 1998, counsel for Accused Pauline Nyiramasuhuko filed a "Notice of Appeal–Objection Based on Lack of Jurisdiction", pursuant to Rule 72 B(i) of the Rules of Procedure and Evidence of the International Tribunal for Rwanda, seeking to appeal the Decision on A Preliminary Request by the Defence for the Assignment of A Co-Counsel to Pauline Nyiramasuhuko, rendered orally by Trial Chamber I on 13 March 1998, Prosecutor v. Pauline Nyiramasuhuko and Arésne Shalom Ntahobali, Case No. ICTR-97-21-A.

in The Hague and the ICTR Registry in Arusha communicate regularly regarding pending cases and any other relevant matters and that there exists a secure and reliable means of transmitting documents between the two locations. Thus, at the end of June, President McDonald requested that ICTR staff be assigned to The Hague to assist the ICTR Appeals Chamber Judges in their consideration and disposition of matters before them.

274. A third reason for enhanced collaboration concerns the substantive law of both Tribunals. As Decisions and Judgements are rendered, jurisprudence develops. As the Chambers of the Tribunals commence and conclude the hearing and deliberation of more and more cases, the bodies of jurisprudence produced by each expands and overlaps. At the end of the present reporting period, five years after the creation of the ICTY, and four years after the establishment of the ICTR, the jurisprudence that has been produced by the application, interpretation and development of the law by both Tribunals is a vital resource that should be among the sources consulted by both in their future deliberations.

275. Finally, closer cooperation is merited by the simple fact that geography is all that separates the dead, mutilated and raped in Rwanda from the dead, mutilated and raped in the former Yugoslavia. In both Rwanda and the former Yugoslavia, populations are attempting to fill the vacuum left by the collapse of civil society with a semblance of normality. As survivors work to rebuild, mentally and physically, the activities of both Tribunals should be informed by the roles that each can and must play in that work.

Part Four

CONCLUSION

XI. CONCLUSION

A. Introduction

276. Previous annual reports detailed the work then being undertaken to create the physical and normative structure of the Tribunal. The present reporting period has been characterized by the unprecedented growth and development of the institution, which has now, without any doubt, become a fully-fledged international criminal institution. In doing so, it has demonstrated, contrary to the predictions of many observers, that international criminal justice is an achievable goal. Through the development and application of concrete procedures, the Tribunal is beginning to dispense that justice, achieving tangible results for both victims and accused. However, previous annual reports also reflected the frustration felt by all those engaged in the work of the Tribunal. To some extent, this frustration remains. Certain States have borne an inordinate share of the responsibility of maintaining international order. Yet, the majority has failed to meet its obligations. It is worth emphasising, therefore, that the potential benefits of the Tribunal's work can not be realised until the international community demonstrates the same commitment to empower the Tribunal as it had shown when it established it.

B. An instrument of international criminal justice

277. Five years after the adoption of resolution 827, much has undoubtedly been achieved. The Tribunal is at long last a fully functioning international criminal judicial institution. One full judicial term has been completed. Further, with twenty-seven indictees in custody and one provisionally released, there is a sufficient docket to ensure the completion of a second four-year period. More than five hundred people are directly involved in supporting this activity, inter alia, investigating, prosecuting and adjudicating

cases, working in field offices in the former Yugoslavia and in the Tribunal's Detention Unit in The Hague, liasing with Defence counsel, assisting witnesses who have come to testify, and promoting the mandate and activities of this instrument of international criminal justice. Also significant in this regard is the increase in the number of United Nations staff posts, which has ensured that the Tribunal has the security of a fixed structure with which to undertake its work.

278. It is important not to understate the significance of such institution-building. The Tribunal did not exist functionally in 1993. There were no staff, no offices, no indictments, only victims, collective outrage and resolutions of the Security Council. Moreover, when viewed against the overall level of cooperation that the Tribunal received for much of the last five years, the level of its activity today is remarkable. Constrained by its lack of support, the Tribunal instead focused efforts on creating the infrastructure necessary to the execution of its mandate. In doing so, it succeeded to the extent that it was able to in the absence of the essential tool of State cooperation. It has now forged links with many of the agencies involved in the peace process in the former Yugoslavia, as a result becoming inextricably identified with that process, and has become a respected voice in the discussions concerning the permanent International Criminal Court.

279. The Tribunal's experience in applying legal principles that lay untouched since Nuremberg and in developing new ones to deal with the myriad unprecedented situations it has faced has enabled it to acquire expertise in the application and development of international criminal law.

280. Moreover, the Tribunal has established what is essentially a code of international criminal procedure, and a body of procedural jurisprudence concerning the application of international humanitarian law. Three full trials, three sentencing procedures and four appellate proceedings have been completed. Four further trials are in progress, in three courtrooms in daily session. There are eight cases pending in pre-trial phases[37] and an additional thirteen public indictments outstanding against thirty-one individuals.

281. The Tribunal has survived its first tentative years in part due to a new collective activism on the part of a number of States, and in part due to the substantial completion of the process of institution-building. The promise offered by its work since 1993 is beginning to be fulfilled. The focus has moved from whether the Tribunal can survive to how best to achieve the so-called "critical mass" that is considered essential to the effective discharge of its mandate. For a number of reasons, however, it is a mistake to suggest that a finite amount or type of activity is necessary to facilitate the discharge of the Tribunal's mandate. As has been vividly demonstrated during the reporting period, what is required for the Tribunal to succeed is nothing more and nothing less than the support of the States that created it. States must arrest indictees. States must furnish the Tribunal with the necessary financial and in-kind contributions. States must apply pressure to recalcitrant governments. That support must be offered continuously, for as the history of non-compliance proves, obligations do not bind in a vacuum.

282. The principle of accountability must be accorded the same respect in practice as it is in theory. Events during the reporting period provide grounds for optimism in this regard. Beyond its immediate and tangible achievements, the Tribunal has been on the cusp of renewed interest in international law. As the reporting period drew to a close, delegates gathering in Rome to negotiate the establishment of a permanent International Criminal Court concluded a treaty to that end. This enterprise, like much of the law that the Tribunal

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37 Kvocka, Radic, Zigic, Kos (IT-95-4); Zigic (IT-95-8); Simic and Others (IT-95-9); Jelisic (IT-95-10); Kordic and Cerkez (IT-95-14/2); Kupreskic and Others (IT-95-16); Kunarac (IT-96-23); Krnojelac (IT-97-25).

applies, was first proposed in the aftermath of the Holocaust but fell prey to the politics of the following decades before being revitalised in 1989. The signing of a treaty after almost fifty years of effort should mark a watershed for international law: the creation of a forum through which the international community can enforce the human rights principles it has declared sacred. The application of one of the most basic principles –punishment of criminal conduct- to the field of human rights should end the impunity of those who mock what are declared to be inviolable laws. By bringing individuals, as victims or as perpetrators, within the reach of the law of nations, individual accountability may become first a reality, and then the norm. Yet, the completion of this enterprise requires the ratification of the treaty and the physical creation of the Court. States must see this historic day to its close.

283. Moreover, 1998 has witnessed serious public discussion of the possibility of holding accountable those responsible for what the United Nations Sub-Commission on Prevention of Discrimination and the Protection of Minorities referred to as the "autogenocide" perpetrated in Cambodia from 1975 to 1979.[38] The Tribunal fully supports efforts to bring to justice those who commit egregious violations of human rights. The principle of individual accountability, on which the Tribunal is based, should not be applied selectively.

284. Two further developments during the reporting period are of particular note. First, the role accorded the Tribunal in the response of the international community to recent events in Kosovo. The Contact Group, to date foremost in coordinating action by the international community, has explicitly referred to the human rights violations occurring in Kosovo within a legal framework. In its Statement of 9 March, the Contact Group urged the Prosecutor to commence investigations of incidents in Kosovo that may fall within the Tribunal's jurisdiction, and reminded the Federal Republic of Yugoslavia that it was legally required to cooperate in such investigations.[39] The Prosecutor has stated that she believes that international humanitarian law applies to the situation in Kosovo and has received funds to support her efforts to gather information and evidence.[40] The Tribunal is, thus, engaged as an integral part of efforts to find a solution to the conflict, highlighting its potential role in halting or deterring possible violations of international humanitarian law.

285. Second is the increase in cooperation from the Republika Srpska, evinced principally through the surrender of five indictees from its territory. The voluntary transfers of these accused may be said to represent a turning point for the Tribunal. Although the Tribunal has the power to issue arrest warrants, and international organizations can execute them and have done so, a predicate of the process of reconciliation - which is the ultimate purpose of the Tribunal's judicial proceedings- is that all those affected by the conflict - abused and abusers - are themselves able and willing to move beyond the terror or the tyranny that engulfed them. For the abused, forgiveness is possible only when they know, and exceptionally, understand, the reasons for their suffering. For the abusers, forgiveness is possible only when they accept accountability. Indictees are of course innocent until proven guilty beyond reasonable doubt, but their willingness to participate in

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38 In March 1979 the Commission on Human Rights heard a report from the chairman of the Sub-Commission on Prevention of Discrimination and the Protection of Minorities which described events between 1975 and 79 as "the most serious that had occurred anywhere in the world since nazism... nothing less than autogenocide". Commission on Human Rights 35th Session, Summary record of the First Part (Public) of 1510th Meeting. UN.Doc E/CN.4/SR.1510 9 March 1979, especially at para. 22.

39 See also Security Council resolution 1160, (1998), adopted 31 March 1998, at para. 17; "Statement by Madeleine Albright at the Contact Group Meeting", 9 March; "Press Conference by the Ministers to the Contact Group on Kosovo", 9 March 1998

40 "The Prosecutor's Statement Regarding the Tribunal's Jurisdiction Over Kosovo", ICTY Press Release CC/PIO/302-E, 10 March 1998; "Communication from the Prosecutor to the Contact Group members", ICTY Press Release CC/PIU/329-E, 7 July 1998.

the judicial process is an important vindication of that process - what Benjamin Ferencz refers to as the force of law over the law of force[41].

286. As noted above,[42] this has occurred within the wider framework of efforts directed towards the political normalisation of the entity, such efforts having begun to bear fruit during the reporting period. The Tribunal welcomes statements concerning the Tribunal made by Prime Minster Milorad Dodik, which have been accompanied by a substantial increase in cooperation from the Republika Srpska during the reporting period.[43] Considering the history of intransigence and belligerence in the Republika Srpska towards the Tribunal, such developments potentially portend a significant improvement in the institution's level of effectiveness in the former Yugoslavia. In creating a historical record, the Tribunal has a significant contribution to make to the creation of conditions conducive to an objective assessment of the events of this decade, themselves a prerequisite for the success of efforts directed towards lasting reconciliation.

287. It is possible to say, therefore, that progress has been made during the reporting period in establishing the principles that the work of the Tribunal seeks to vindicate - individual accountability, peace *through*, rather than as an alternative to, justice and respect for the rule of law.

C. Nothing more than a beginning

288. Nevertheless, although the events of the last year constitute a significant breakthrough, they are in many respects no more than a beginning, and have come more than four years after the establishment of the Tribunal. There is no ground for complacency. These successes while more than welcome, remain modest considering the shocking atrocities that were committed in the former Yugoslavia. There are a number of areas of particular concern.

289. It is precisely the extent of the Tribunal's progress to date that makes State cooperation so vital, both now and in the future. The Tribunal does not exist in a vacuum. Thirty-one publicly indicted persons, charged with the most serious offences known to the law, continue to enjoy absolute impunity. During the reporting period, no States adopted legislation amending their national laws to meet the requirements of Security Council resolution 827 (1993), the total remaining static at twenty. While a number of other have indicated that no action is necessary to do so, the indisputable fact is that more than five years after States established the Tribunal, more than three-quarters of them have yet to take the most basic measure required for cooperating with it.

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41 "The Legacy of Nuremberg: International Criminal Courts", 1998 Sloan Lecture delivered by Benjamin Ferencz (at Pace University) March 1998.

42 See Part Two, Section V.

43 See for example February 20 State Department Briefing. During a meeting between Prime Minister Dodik and US Secretary of State Madeleine Albright, Dodik "committed to helping refugees move home [and] agreed that all [suspected] war criminals should go to The Hague –voluntarily or otherwise. He promised to work intensively to facilitate voluntary surrenders but acknowledged that, under any circumstances, all must face justice." See also an interview with Prime Minster Dodik in Reporter Magazine, July 1997, (prior to his election) in which he is quoted as saying that "there is simply a need to implement the Dayton accord...Radovan Karadzic has to give up as he has no other option. There is only one way to resolve this...and that is by diplomatic means, and the best diplomacy is the one that is imposed on you." See also "The best for Karadzic to surrender [sic]: Bosnian Serb Premier" Agence France Presse Report 16 April 1998. In contrast, when discussing the issue of persons indicted by the Tribunal, President Plavsic asserts that "this war has left a bitter aftertaste in the mouths of all the peoples of Bosnia...In this nightmare that we've been through, any attempt to quantify culpability is absurd and immoral." Opening remarks by President Biljana Plavsic, George Washington University 15 May 1998.

290. An acutely pressing issue concerns the enforcement of sentences imposed by the Tribunal. A further consequence the Tribunal lacking a physical territory is the absence of any means of imprisoning convicted persons. Under Article 27 of the Statute, States may express a willingness to accept such convicted persons. Only three States have concluded agreements for the enforcement of sentences, of a total of ten that have advised the Tribunal of their willingness to accept convicted persons. Yet, it is *imperative* that this assistance is forthcoming. As noted above, there are presently twenty-seven indictees in custody, and one provisionally released. Over the coming months and years, as their trials and appeals are completed, there may exist a situation where there are more convicted persons than there are States willing, or procedurally able, to enforce their prison sentences. As more accused persons come into the custody of the Tribunal, this problem is likely to increase. It is vital, therefore, that States willing to offer this assistance offer it expeditiously.

291. Further, as a criminal system that is not based in any territory, the Tribunal is denied one crucial facility that most national systems take for granted. It is unable to offer practical protection to witnesses who are at risk by virtue of the fact that they assist the Tribunal. The nature of many of the crimes committed in the former Yugoslavia increases both the trauma suffered and the risk borne by these brave individuals. However, outside of its walls, the Tribunal is able to provide only limited measures to defend such witnesses against the dangers that they face. In response, the Tribunal has established a witness protection programme to relocate witnesses to the territory of States who have agreed to accept them, with appropriate rights and facilities, under various immigration categories. A number of States have either concluded agreements or are currently negotiating them. However, the scheme is still in its nascent stages and urgently requires the support of more States.

292. The Federal Republic of Yugoslavia persists in its refusal to afford the Tribunal the cooperation that is expected and required of it. The reporting period marks the fifth year that it has flaunted the most fundamental principles and responsibilities common to modern States. An unwavering commitment, expressed through active measures, to remedy the defaults of the Federal Republic of Yugoslavia is now required from the international community.

293. Events in Kosovo indicate the dangers of complacency. While the Peace Implementation Council pursues a more robust policy in Bosnia and Herzegovina, massive numbers of civilians are again being made refugees, victims and survivors in southern Serbia. The experience of recent years in the former Yugoslavia has shown that the only effective response to such events is a firm and timely one. While prevention is still possible, it is imperative that this experience is applied constructively.

294. Similarly, the history of non-cooperation and non-compliance with the Tribunal should inform the progress of the permanent International Criminal Court. The Tribunal's status as a mandatory Chapter Seven mechanism, together with its unequivocal legal basis, did not preclude non-cooperation that all but crippled its ability to move beyond the creation of a normative institutional framework in its early years. Thus, States must be genuinely committed to the Court, demonstrated, initially through the expeditious ratification of the Statute. Only then will the Court be capable of discharging its mandate.

295. It must be stressed, however, that the Tribunal can represent only the first step in the process of peace and reconciliation. It is not possible, logistically or financially, for the Tribunal to prosecute all those who fall within its jurisdiction. As at Nuremberg, the majority of cases will be brought before national courts. Thus, the prosecutions that the Tribunal undertakes must serve as a catalyst for action by States, principally those of the former Yugoslavia but, where universal jurisdiction applies, all States in whose territory alleged perpetrators reside.

D. Future priorities: ensuring that history listens and ongoing review

296. Ensuring that history listens is a most important function of the Tribunal. Through our proceedings we strive to establish as judicial fact the full details of the madness that transpired in the former Yugoslavia. In the years and decades to come, no one will be able to deny the depths to which their brother and sister human beings sank. And by recording the capacity for evil in all of us, it is hoped to recognise warning signs in the future and to act with sufficient speed and determination to prevent such bloodshed.

297. Yet, it is not enough simply to create a record. Its power lies in its dissemination, most crucially within the former Yugoslavia. Many of its population have been denied access to objective information regarding the conflict in general and the violations of international law committed during it, instead being subject to constant propaganda that portrays the Tribunal as a tool of division rather than of healing. It is therefore intended to strengthen the contacts between the Tribunal and the former Yugoslavia, through increased liaison with international and indigenous agencies there and more direct distribution of information detailing the history, mandate, objectives and activities of the Tribunal. Only by providing people with such information will it be possible to challenge and to change the culture that fosters impunity and division.

E. Concluding remarks

> "In the twentieth century, the idea of human universality rests less on hope than on fear, less on optimism about the human capacity for good than on dread of the human capacity for evil, less on a vision of man as a maker of history than of man the wolf towards his own kind."[44]

298. The veracity of this statement is demonstrated by the research of a number of scholars. In particular, Rudolph J. Rummel, in his treatise entitled "Power, Genocide and Mass Murder", estimates that in this century a total of over two hundred and ten million people have been killed in over forty episodes of mass killings.[45]

299. The Tribunal affords an opportunity to lay the groundwork for a better twenty-first century. To those who were caught in the destruction in the former Yugoslavia, the Tribunal is the voice of a universalism based on hope. In hearing the victims' testimonies, it ensures that the ear of history, which has so often been deaf this Century, is listening. To those who made them victims, its proceedings demonstrate why justice is better than revenge. Responding within a framework of law to an attack on the human being, and not within a framework of violence and destruction, is the first step in rebuilding a community from the ruins of a society divided by ethnically-based slaughter.

300. Thus, to support the nascent international order that the Tribunal epitomises, the process of law must be applied and must be upheld. In this, there should be no doubt, for in this there can be no doubt. The rule of law is not subject to expediency. The international community must see, must listen and must act if it is not to squander the extraordinary potential of its creation.

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44 Michael Ignatieff, "The Warrior's Honor" (Metropolitan Books, 1998) at pp. 18-19.
45 Of this total, he estimates that over one hundred and seventy million of the victims were civilian, while forty million were combatants killed in conflicts. Rudolph J Rummel "Power, Genocide and Mass Murder" 31 Journal of Peace Research 1 (1994).

Annex I

Summary of persons detained by the Tribunal during the reporting period

	Name	Case No.	Date of transfer to the custody of the Tribunal	Status
1.	Dusko TADIC	IT-94-1-A	24 April 1995	Verdict: 7 May 1997 Sentenced: 14 July 1997 Appeal pending
2.	Milojica KOS	IT-95-4-PT	29 May 1998	Pre-trial
3.	Miroslav KVOCKA	"	9 April 1998	Pre-trial
4.	Mladen RADIC	"	9 April 1998	Pre-trial
5.	Zoran ZIGIC	IT-95-4-PT IT-95-8-PT	16 April 1998	Pre-trial
6.	Milan SIMIC	IT-95-9-PT	15 February 1998	Provisionally released: 26 March 1998
7.	Miroslav TADIC	"	15 February 1998	Pre-trial
8.	Simo ZARIC	"	25 February 1998	Pre-trial
9.	Goran JELISIC	IT-95-10-PT	22 January 1998	Pre-trial
10.	Slavko DOKMANOVIC	IT-97-13-T	27 June 1997	Deceased 28 June 1998
11.	Dragoljub KUNARAC	IT-96-26-PT	5 March 1998	Pre-trial
12.	Milan KOVACEVIC	IT-97-24-PT	10 July 1997	Trial
13.	Milorad KRNOJELAC	IT-97-25-PT	15 June 1998	Pre-trial
14.	Zejnil DELALIC	IT-96-21-T	8 May 1996	Trial
15.	Hazim DELIC	"	13 June 1996	Trial
16.	Esad LANDZO	"	13 June 1998	Trial
17.	Zdravko MUCIC	"	9 April 1996	Trial
18.	Zlatko ALEKSOVSKI	IT-95-14/1-T	28 April 1997	Trial
19.	Tihomir BLASKIC	IT-95-14-T	1 April 1996	Trial
20.	Mario CERKEZ	IT-95-14/2-PT	6 October 1997	Pre-trial
21.	Dario KORDIC	"	6 October 1997	Pre-trial
22.	Ivan SANTIC	"	6 October 1997	Charges withdrawn. Released 19 December 1997
23.	Pero SKOPLJAK	"	6 October 1997	Charges withdrawn. Released 19 December 1997
24.	Drago JOSIPOVIC	IT-95-16-PT	6 October 1997	Pre-trial
25.	Mirjan KUPRESKIC	"	6 October 1997	Pre-trial
26.	Vlatko KUPRESKIC	"	18 December 1997	Pre-trial
27.	Zoran KUPRESKIC	"	6 October 1997	Pre-trial

	Name	Case No.	Date of transfer to the custody of the Tribunal	Status
28.	Dragan PAPIC	"	6 October 1997	Pre-trial
29.	Vladimir SANTIC	"	"	Pre-trial
30.	Marinko KATAVA	"	"	Charges withdrawn. Released 19 December 1997
31.	Anto FURUNDZIJA	IT-95-17-PT	18 December 1997	Trial
32.	Dra'en ERDEMOVIC	IT-96-22-PT bis	30 March 1996	Sentenced: 5 March 1998

Annex II

Summary of indictees still at liberty at the end of the reporting period

04/11/94: **"NIKOLIC" (SUSICA CAMP) IT-94-2**
Dragan Nikolic: g., v., c.

13/02/95: **"MEAKIC AND OTHERS" (OMARSKA CAMP) IT-95-4**
Zeljko Meakic: g., v., gen., c.
Dragoljub Prcac: g., v., c.
Momcilo Gruban: g., v., c.
Dusan Knezevic: g.,v., c. See also 21/07/95 "Keraterm camp"

13/02/95: (amended 1/09/95 and 14/12/95) **"TADIC and OTHER" IT-94-1**
Goran Borovnica: g., v., c.

21/07/95: **"SIKIRICA AND OTHERS" (KERATERM CAMP) IT-95-8**
Dusko Sikirica: g., v., gen., c.
Damir Dosen: g., v., c.
Dragan Eustar: g., v., c.
Dragan Kulundzija: g., v., c.
Nenad Banovic: g., v., c.
Predrag Banovic: g., v., c.
Dusan Knezevic: g., v., c. See also 13/02/95 "Omarska camp"

21/07/95: **"MILJKOVIC AND OTHERS" (BOSANSKI SAMAC) IT-95-9**
Slobodan Miljkovic: g., v., c.
Blagoje Simic: g., v., c.
Stevan Todorovic: g., v., c.

21/07/95: **"JELISIC AND OTHER" (BRCKO) IT-95-10**
Ranko Cesic: g., v., c.

25/07/95: **"MARTIC" IT-95-11**
Milan Martic: v.

25/07/95: **"KARADZIC and MLADIC: IT-95-5** See also 16/11/95 "Srebrenica"
Radovan Karadzic: g., v., gen., c.
Ratko Mladic: g., v., gen., c.

23/08/95: **"RAJIC" (STUPNI DO) IT-95-12**
Ivica Rajic: g., v.

7/11/95: (amended 03/04/96 and 2/12/97) **"MRKSIC AND OTHERS" (VUKOVAR HOSPITAL) IT-95-13a**
Mile Mrksic: g., v., c.
Miroslav Radic: g., v., c.
Veselin Sljivancanin: g., v., c.

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10/11/95: **"MARINIC" (LASVA VALLEY)* IT-95-15**
Zoran Marinic: g., v.

16/11/95: **"SREBRENICA" IT-95-18 See also 25/07/95 "Karadzic and Mladic"**
Radovan Karadzic: v., gen., c.
Ratko Mladic: v., gen., c.

26/06/96: **"GAGOVIC AND OTHERS" (FOCA) IT-96-23**
Dragan Gagovic: g., v., c.
Gojko Jankovic: g., v.,c.
Janko Janjic: g., v., c.
Radomir Kovac: g., v., c.
Zoran Vukovic: g., v., c.
Dragan Zelenovic: g., v., c.
Radovan Stankovic: g., v., c.

TOTAL: **31 INDICTEES**
13 INDICTMENTS

Notes:

g.: grave breaches of the 1949 Geneva Conventions

v.: violations of the laws or customs of war

gen.: genocide

c.: crimes against humanity

underlined: command responsibility

bold: indicted in two different indictments

* indictment confirmed on 10/11/95 and kept confidential until its unsealing on 27/06/96.

Annex III

Detailed survey of execution or non-execution of arrest warrants by States, entities and international organizations on the territory of the former Yugoslavia

This annex presents a detailed survey of all the arrest warrants that have been addressed to States, entities and international organizations on the territory of the former Yugoslavia. Where possible, the last known place of residence of the indictee is indicated as well as the action, if any, taken by the State, entity or organization to which the arrest warrant was sent.

Federal Republic of Yugoslavia (Serbia and Montenegro)

IT-94-2-R61 Dragan NIKOLIC (also referred to as the Susica Camp case) (indictment confirmed on 4 November 1994; international arrest warrant, 20 October 1995).

Last known place of residence: Vlasenica in the territory of the Republika Srpska.

Action by the Federal Republic of Yugoslavia: none.

IT-95-4-I MEAKIC and seven others[1] (also referred to as Omarska Camp case) (indictment confirmed, 13 February 1995; warrant of arrest against Dragomir SAPONJA to the Federal Republic of Yugoslavia on 13 February 1995).

Last known places of residence: Zeljko Meakic - Omarska (Republika Srpska), where he is the Deputy Commander of Omarska police station.

Action by the Federal Republic of Yugoslavia: none.

Miroslav Kvocka and Mladen Radic were arrested by SFOR on 8 April 1998, Milojica Kos was similarly arrested on 28 May 1998 and Zoran Zigic was transferred from Banja Luka prison to The Hague on 16 April 1998.

On 5 May and 8 May 1998 the Tribunal granted the leave requested by the Office of the Prosecutor to withdraw the charges against Zdravko Govedarica, Gruban, Predrag Kostic, Nedeljko Paspalj, Milan Pavlic, Milutin Popovic, Drazenko Predojevic, Zeljko Savic, Mirko Babic, Nikica Janjic and Dragomir Saponja.

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[1] Zeljko Meakic, Miroslav Kvocka, Dragoljub Prcac, Mladen Radic, Milojica Kos, Momcilo Gruban, Ducan Knezevic and Zoran Zigic.

IT-95-8-I SIKIRCA and seven others[2] (also referred to Keraterm Camp case) (indictment confirmed 21 July 1995; warrant of arrest against Dragomir SAPONJA to the Federal Republic of Yugoslavia on 24 July 1995).

Last known places of residence: Ducko Sikirica (the Coalition of International Justice ("CIJ") reported that Sikirica attempted to run for municipal elections but was screened by the OSCE; the OSCE should, therefore, have his address); Nenad Banovic - Prijedor (Republika Srpska), where he frequents the "Express Restaurant"; Predrag Banovic - Prijedor (Republic Srpska), where he frequents the "Express Restaurant".

Action by the Federal Republic of Yugoslavia: none.

Zoran Zigic was transferred from Banja Luka prison to The Hague on 16 April 1998.

On 5 May and 8 May 1998 the Tribunal granted the leave requested by the Office of the Prosecutor to withdraw the charges against Nikica Janjic, Goran Lajic, Dragan Kondic, Dragomir Saponja and Nedjeljko Timarac.

IT-95-9-I/R61 MILJKOVIC and five others[3] (also referred to as Bosanski Samac case) (indictment confirmed, 21 July 1995; warrants of arrest to Federal Republic of Yugoslavia, 24 July 1995).

Last known places of residence: Slobodan Miljkovic - Kragujevac in Serbia, 60 miles south-east of Belgrade; Blagoje Simic - said by the CIJ to be the highest-ranking public official in Bosanski Samac, with an office in the town hall; Stevan Todorovic - according to the CIJ, he is Deputy of the local office of Republika Srpska state security in Bosanski Samac, works the night shift (7 p.m. - 7 a.m.) and lives in the village of Donja Slatina, "a 3-minute, 30-second drive from American-staffed NATO base of Camp Colt, with 1,000 soldiers. His commuter route is routinely travelled by NATO patrols".

Action by the Federal Republic of Yugoslavia: none.

Milan Simic and Miroslav Tadic surrendered to the Tribunal on 14 February 1998. Simo Zaric surrendered on 24 February 1998.

IT-95-11-R61 Milan MARTIC (indictment confirmed 25 July 1995: warrant of arrest served to the Federal Republic of Yugoslavia on

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[2] Ducko Sikirica, Damir Dosen, Dragan Fustar, Dragan Kulundzija, Nenad Banovic, Predrag Banovic, Ducan Knezevic and Zoran Zigic.

[3] Slobodan Miljkovic, Blagoje Simic, Milan Simic, Miroslav Tadic, Stevan Todorovic and Simo Zaric.

26 July 1995; advertisement of indictment in accordance with Rule 60 served to the Federal Republic of Yugoslavia, 23 January 1996; international arrest warrant, 8 March 1996).

Last known place of residence: Banja Luka in the territory of the Republika Srpska.

Action by the Federal Republic of Yugoslavia: none.

IT-95-13-R61 MRKSIC, RADIC, SLJIVANCANIN (also referred to as Vukovar case) (indictment confirmed on 7 November 1995; warrant of arrest to the Federal Republic of Yugoslavia, 8 November 1995; advertisement of indictment in accordance with Rule 60 served to the Federal Republic of Yugoslavia, 23 January 1996; international arrest warrant, 3 April 1996).

Last known places of residence: all in Serbia - Mrksic in Belgrade, Radic in Cacak, Sljivancanin in Belgrade. Sljivancanin was promoted in the Yugoslav (Serbia and Montenegro) army to full colonel and transferred to Belgrade, where he is now head of the Centre of Advanced Military Schools in Belgrade.

Action by the Federal Republic of Yugoslavia: none.

Comment:
At the Rule 61 hearing of Vukovar, Clint Williamson of the Office of the Prosecutor said that the accused were known to be in the territory of the Federal Republic of Yugoslavia and had not been arrested:

> "They have promoted, supported and continued to pay an indicted war criminal, and to maintain him as a senior officer in their army. If these reports are correct, they now even have him training officer cadets. Can there be any more flagrant way of showing their disregard and even contempt for their obligations as a Member State of the United Nations, obligations that the Federal Republic of Yugoslavia reaffirmed by entering into the Dayton Accords? In this case it is very clear that the failure to effect personal service on the accused and to secure their arrests and transfer to The Hague is due solely to the refusal of the Federal Republic of Yugoslavia to cooperate with the Tribunal as it is required to do" (Transcript of Rule 61 hearing, 28 March 1996).

In its 3 April 1996 decision, Trial Chamber I certified the failure of the Federal Republic of Yugoslavia to cooperate with the Tribunal and requested the President to notify the Security Council in accordance with Sub-rule 61 (E). The President notified the Security Council on 24 April 1996.

IT-95-5-R61
IT-95-18-R61

Radovan KARADZIC and Ratko MLADIC (first indictment confirmed, 25 July 1995; warrants of arrest to the Federal Republic of Yugoslavia on 26 July 1995. Request for assistance by the Trial Chamber to all States issued, 2 August 1995. Second, Srebrenica indictment confirmed on 16 November 1995; warrants of arrest to the Federal Republic of Yugoslavia, enclosing addresses of KARADZIC and MLADIC in Belgrade, on 21 November 1995. The Rule 61 hearing was held in July 1996 with regard to these two indictees. On 11 July 1996, Trial Chamber I certified the failure of the Republika Srpska and the Federal Republic of Yugoslavia to cooperate with the Tribunal. On the same day, international arrest warrants and orders for surrender were issued in respect of the two accused). The President of the Tribunal so informed the Security Council on the same day.

Last known places of residence: Karadzic - Pale (Republika Srpska). It is reported that Karadzic maintains a large house on a mountainside, well known to visitors.

Action by the Federal Republic of Yugoslavia: none.

Bosnia and Herzegovina

IT-94-2-R61

Dragan NIKOLIC (indictment confirmed, 4 November 1994; warrant of arrest to Bosnia and Herzegovina on 7 November 1994; advertisement of indictment in accordance with Rule 60 served to Bosnia and Herzegovina, 13 March 1995; international arrest warrant, 20 October 1995). Trial Chamber I at the Nikolic Rule 61 hearing found that the failure to execute the arrest warrant against Nikolic was due to Bosnian Serb authorities and not to Bosnia and Herzegovina.

Last known place of residence: Vlasenica in the territory of the Republika Srpska.

Action by Bosnia and Herzegovina: letter to the Tribunal from the Bosnia and Herzegovina Ministry of Justice dated 15 November 1994 explaining that Bosnia and Herzegovina was unable to execute the arrest warrant "because he (Nikolic) resides at the temporarily occupied territory controlled by aggressors, in fact, in the Municipality of Vlasenica region".

Advertisement of indictment against Nikolic advertised by Radio and Television of Bosnia and Herzegovina on 7 April 1995.

IT-94-3-I

Goran BOROVNICA (indictment confirmed, 13 February 1995; warrant of arrest to Bosnia and Herzegovina, 13 February 1995).

Last known place of residence: Kozarac in Prijedor Opstina.

Action by Bosnia and Herzegovina: letter dated 8 March 1995 informing the Tribunal that Bosnia and Herzegovina was unable to execute arrest warrants because the accused "reside(s) in a temporarily occupied territory controlled by the aggressor, i.e., the area of Prijedor municipality".

Advertisement of indictment against Borovnica in accordance with Rule 60 served to Bosnia and Herzegovina, 23 January 1996.

IT-95-4-I MEAKIC and seven others (also referred to as Omarska Camp case) (indictment confirmed, 13 February 1995; warrants of arrest to Bosnia and Herzegovina, 13 February 1995; advertisement of indictment in accordance with Rule 60 served to Bosnia and Herzegovina on 22 January 1997).

Last known places of residence: Zeljko Meakic - Omarska (Republika Srpska), where he is the Deputy Commander of Omarska police station.

Action by Bosnia and Herzegovina: letter dated 8 March 1995 informing the Tribunal that Bosnia and Herzegovina was unable to execute arrest warrants because the accused "reside in a temporarily occupied territory controlled by the aggressor, i.e., the area of Prijedor municipality".

Miroslav Kvocka and Mladen Radic were arrested by SFOR on 8 April 1998, Milojica Kos was also arrested on 28 May 1998 and Zoran Zigic was transferred from Banja Luka prison to The Hague on 16 April 1998.

On 5 May and 8 May 1998 the Tribunal granted the leave requested by the Office of the Prosecutor to withdraw the charges against Zdravko Govedarica, Gruban, Predrag Kostic, Nedeljko Paspalj, Milan Pavlic, Milutin Popovic, Drazenko Predojevic, Zeljko Savic, Mirko Babic, Nikica Janjic and Dragomir Saponja.

IT-95-8-I SIKIRICA and seven others (also referred to as Keraterm Camp case) (indictment confirmed 21 July 1995; warrants of arrest to Federation of Bosnia and Herzegovina on 24 July 1995; advertisement of indictment in accordance with Rule 60 served to Federation of Bosnia and Herzegovina, 23 January 1996).

Last known places of residence: Dusko Sikirica (the Coalition of International Justice reported that Sikirica attempted to run for municipal elections but was screened by OSCE; CSCE should, therefore, have his address); Nenad Banovic - Prijedor (Republika Srpska), where he frequents the "Express Restaurant"; Predrag Banovic - Prijedor (Republika Srpska), where he frequents the Express Restaurant.

Action by Bosnia and Herzegovina: letter from Bosnia and Herzegovina to Tribunal dated 7 September 1995 informing the

Registrar that the Bosnia and Herzegovina authorities had issued warrants to arrest the accused, but had been unable to execute them because the accused "are residing in the temporarily occupied territory controlled by the aggressor".

Zoran Zigic was transferred from Banja Luka prison to The Hague on 16 April 1998.

On 5 May and 8 May 1998 the Tribunal granted the leave requested by the Office of the Prosecutor to withdraw the charges against Nikica Janjic, Goran Lajic, Dragan Kondic, Dragomir Saponja and Nedjeljko Timarac.

IT-95-9-I MILJKOVIC and five others (also referred to as Bosanski Samac case) (indictment confirmed, 21 July 1995; warrants of arrest to Bosnia and Herzegovina, 24 July 1995; advertisement of indictment in accordance with Rule 60 served to Bosnia and Herzegovina, 23 January 1996).

Last known places of residence: Slobodan Miljkovic - Kragujevac in Serbia, 60 miles south-east of Belgrade; Blagoje Simic - said by CIJ to be the highest-ranking public official in Bosanski Samac, with an office in the town hall; Stevan Todorovic - according to CIJ, he is Deputy of the local office of Republika Srpska state security in Bosanski Samac, works the night shift (7 p.m. - 7 a.m.) and lives in the village of Donja Slatina, "a 3-minute, 30-second drive from American-staffed NATO base of Camp Colt, with 1,000 soldiers. His commuter route is routinely travelled by NATO patrols".

Action by Bosnia and Herzegovina: letter from Bosnia and Herzegovina to Tribunal dated 12 February 1996 informing the Registrar that the indictment against these accused had been publicly announced in the media of Bosnia and Herzegovina.

Milan Simic and Miroslav Tadic surrendered to the jurisdiction of the Tribunal on 14 February 1998. Simo Zaric surrendered on 24 February 1998.

IT-95-10-I JELISIC and CESIC (also referred to as Brčko case) (indictment confirmed, 21 July 1995; warrants of arrest to Bosnia and Herzegovina, 21 July 1995; advertisement of indictment in accordance with Rule 60 served to Bosnia and Herzegovina, 23 January 1996).

Action by Bosnia and Herzegovina: letter from Bosnia and Herzegovina to Tribunal dated 12 February 1996 informing the Registrar that indictment against these accused had been publicly announced in the media of Bosnia and Herzegovina.

Goran Jelisic was arrested by SFOR on 22 January 1998 in Bijeljina.

IT-95-12-R61 Ivica RAJIC, a.k.a. "Viktor ANDRIC" (also known as the Stupni Do case) (indictment confirmed, 29 August 1995; warrant of arrest to Bosnia and Herzegovina, 29 August 1995; advertisement of indictment in accordance with Rule 60 served to Bosnia and Herzegovina, 23 January 1996; international arrest warrant and order for surrender, 13 September 1996).

Last known place of residence: reported as having been living in a Government-owned hotel in Split, Croatia, but to have since left.

Action by Bosnia and Herzegovina: on 8 February 1996, the Bosnia and Herzegovina Minister of Justice informed the Registrar that the indictment against Rajic had been advertised on the Radio and Television of Bosnia and Herzegovina, Independent Radio Studio 99, Independent Television 99, Independent Television Hayat and in Oslobodenje and Avaz, daily newspapers with a wide circulation in Bosnia and Herzegovina.

IT-95-14-I KORDIC and five others,[4] including Tihofil BLASKIC (also known as Lasva River Valley case) (indictment confirmed on 10 November 1995; warrants of arrest to Bosnia and Herzegovina on 14 November 1995).

Action by Bosnia and Herzegovina: letter from Bosnia and Herzegovina to Tribunal dated 29 January 1996 informing the Registrar that the Bosnia and Herzegovina authorities had taken all necessary measures to arrest the accused, but that all accused are in the territory of the Federation of Bosnia and Herzegovina controlled by the Croatian Defence Council, with the exception of Blaskic, who was in the Republic of Croatia.

Dario Kordic, Mario Cerkez, Ivan Santis and Pero Skopljak were transferred to The Hague after their surrender to the jurisdiction of the Tribunal on 6 October 1997. Ivan Santic and Pero Skopljak were subsequently released following the withdrawal of the indictments against them by the Office of the Prosecutor.

IT-95-15-I Zoran MARINIC (indictment confirmed on 10 November 1995; warrant of arrest to Bosnia and Herzegovina on 8 December 1995; advertisement of indictment in accordance with Rule 60 served to Bosnia and Herzegovina on 13 December 1996).

Action by Bosnia and Herzegovina: letter from Federal Justice Minister of Bosnia and Herzegovina on 19 September 1996 to Antonio Cassese, President of the Tribunal, submitting the final decision on the extradition of, inter alia, Zoran Marinic.

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[4] Dario Kordic, Tihofil Blaskic, Mario Cerkez, Ivan Santis, Pero Skopljak and Zlatko Aleksovski.

IT-95-16-I Zoran KUPRESKIC and seven others[5] (indictment confirmed on 10 November 1995; warrant of arrest to Bosnia and Herzegovina on 8 December 1995; advertisement of indictment in accordance with Rule 60 served to Bosnia and Herzegovina on 13 December 1996).

Action by Bosnia and Herzegovina: letter from Federal Justice Minister of Bosnia and Herzegovina on 19 September 1996 to the President of the Tribunal, submitting the final decision on the extradition of Zoran Kupreskic and others. Also, letter from Judge Vidovic, Liaison Officer at the Embassy of Bosnia and Herzegovina, The Hague, dated 9 December 1996 to the Registrar of the Tribunal: "warrants of arrest and surrender regarding Zoran Kupreskic, Mirjan Kupreskic, Vlatko Kupreskic, Stipo Alilovic, Drago Josipovic, Marinko Katava and Dragan Papic were handed over directly to the Deputy Minister of Interior and the Head of Security Service of the Republic/Federation of Bosnia and Herzegovina Mr. Nedzad Ugljen by a representative of the Prosecutor's Office". On 17 November 1995, Judge Vidovic forwarded warrants of arrest and surrender for Dario Kordic, Mario Cerkez, Ivan Santic, Pero Skopljak, Zlatko Aleksovski and Tihomir Blaskic to the Ministry of Justice and Deputy Minister of Justice of the Federation of Bosnia and Herzegovina. The same material was forwarded to the Deputy Minister of Foreign Affairs and, on 16 November 1995, to the Herceg-Bosna authorities in Mostar, with the request for it to be delivered to the Minister of Justice. Mrs. Vidovic informed the Tribunal on 13 January 1997 that, "acting under the warrants of arrest and surrender, the Supreme Court of Bosnia and Herzegovina by its decision No. K-10/95 of 7 December 1995 approved of [the] surrender of war criminals to the International Tribunal for the former Yugoslavia".

Vlatko Kupreskic was arrested by SFOR on 18 December 1997 in Konjic. Mirjan Kupreskic, Vladimir Santic, Drago Josipovic, Dragan Papic and Marinko Katava surrendered to the Tribunal on 6 October 1997. Marinko Katava was subsequently released following the withdrawal of the indictment against him by the Office of the Prosecutor.

The purported death of Stipo Alilovic on 25 October 1996 in Amsterdam was confirmed by documents received by the Tribunal from the Supreme Court of the Government of Bosnia and Herzegovina. The indictment against him was withdrawn following a request by the Office of the Prosecutor.

IT-95-5-R61
IT-95-18-R61 Radovan KARADZIC and Ratko MLADIC (first indictment confirmed, 25 July 1995; warrants of arrest to Bosnia and Herzegovina on 26 July 1995. Request for assistance by the Trial Chamber I to

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[5] Zoran Kupreskic, Mirjan Kupreskic, Vlatko Kupreskic, Vladimir Santis, Stipo Alilovic, Drago Josipovic, Marinko Katava and Dragan Papic.

all States issued, 2 August 1995. Second, Srebrenica indictment confirmed on 16 November 1995; warrants of arrest to Bosnia and Herzegovina on 21 November 1995; international arrest warrants issued 11 July 1996; advertisement of indictment in accordance with Rule 60 in Bosnia and Herzegovina on 9 May 1996).

Last known places of residence: Karadzic - Pale (Republika Srpska). It is reported that Karadzic maintains a large house on a mountainside, well known to visitors.

Action by Bosnia and Herzegovina: Deferral of proceedings to the Tribunal, 16 May 1995; letter from Bosnia and Herzegovina to the Tribunal dated 7 September 1995 informing the Registrar that the Bosnia and Herzegovina authorities had issued warrants to arrest the accused, but had been unable to execute them because the accused "are residing in the temporarily occupied territory controlled by the aggressor and are therefore beyond the reach of the legitimate authorities of the Republic of Bosnia and Herzegovina".

IT-96-21-T DELALIC, DELIC, MUCIC and LANDZO (also referred to as Celebici Camp case) (indictment confirmed on 21 March 1996; two warrants of arrest to Bosnia and Herzegovina (Delic and Landzo), on 21 March 1996).

Action by Bosnia and Herzegovina: Delic and Landzo have been arrested by the Bosnia and Herzegovina authorities and transferred to the Tribunal where they are currently standing trial.

IT-96-23-I Dragan GAGOVIC and seven others[6] (also known as Foca) (indictment confirmed, 26 June 1996; warrants of arrest to Bosnia and Herzegovina, 27 June 1996; advertisement of indictment in accordance with Rule 60 served on Bosnia and Herzegovina).

Action by Bosnia and Herzegovina: none.

Dragoljub Kunarac surrendered to the Tribunal on 4 March 1998.

Federation of Bosnia and Herzegovina

IT-95-12-R61 Ivica RAJIC, a.k.a. "Viktor ANDRIC" (also known as the Stupni Do case) (indictment confirmed, 29 August 1995; warrant of arrest to the Federation of Bosnia and Herzegovina, 29 August 1995; advertisement of indictment in accordance with Rule 60 served to the Federation of Bosnia and Herzegovina, 23 January 1996; international arrest warrant, 13 September 1996).

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[6] Dragan Gagovic, Gojko Jankovic, Janko Janjic, Radomir Kovac, Zoran Vukovic, Dragan Zelenovic, Dragoljub Kunarac, Radovan Stankovic.

Rajic was in the custody of the Federation of Herzegovina and Bosnia in Mostar at the time the indictment was confirmed (see para. 7 of the indictment dated 23 August 1995) and at the time of the issuance of the arrest warrant. According to the Prosecutor, Rajic was tried, acquitted and released. At the Rule 61 hearing, the Prosecutor added that Rajic was reported to be in Kiseljak last January. The Bosnian Ministry of Interior provided the Prosecutor with information according to which Rajic had moved to Mostar. It now appears that he could be living in the Republic of Croatia (see Rule 61 hearing transcripts, 2 April 1996, pp. 152-153). He is reported to have been living in a Government-owned hotel in Split, Croatia, but to have since left.

Action by the Federation of Bosnia and Herzegovina: none.

IT-95-14-I KORDIC and five others, including Tihofil BLASKIC (also known as Lasva River Valley case) (indictment confirmed on 10 November 1995; warrants of arrest to the Federation of Bosnia and Herzegovina on 14 November 1995; advertisement of indictment in accordance with Rule 60 served to Republic of Croatia on 13 December 1996).

Action by the Federation of Bosnia and Herzegovina: none.

Dario Kordic, Mario Cerkez, Ivan Santic and Pero Skopljak were transferred to The Hague after their surrender to the jurisdiction of the Tribunal on 6 October 1997. Ivan Santic and Pero Skopljak were subsequently released following the withdrawal of the indictments against them by the Office of the Prosecutor.

IT-96-23-I Dragan GAGOVIC and seven others (indictment confirmed, 26 June 1996; warrants of arrest to the Federation of Bosnia and Herzegovina, 27 June 1996; advertisement of indictment in accordance with Rule 60 served to the Federation of Bosnia and Herzegovina on 10 December 1996).

Last known places of residence: Dragan Gagovic - Chief of Police in Foca (Republika Srpska); Gojko Jankovic - Foca where he was seen by a journalist in a cafe frequented by French IFOR soldiers (Sunday Times, 28 July 1996); Radomir Kovac - Foca, reportedly working for the local police; Dragan Zelenovic - Foca, reportedly working for the local police; Radovan Stankovic - Foca, reportedly working for the local police. In August 1996, Stankovic was nearly arrested by local police, but he escaped. He later filed a complaint with the IPTF alleging harassment by those police forces. IPTF recorded the complaint and made no attempt to arrest Stankovic.

Action by the Federation of Bosnia and Herzegovina: none to date.

Dragoljub Kunarac surrendered to the jurisdiction of the Tribunal on 4 March 1998.

Republika Srpska

IT-94-2-R61 Dragan NIKOLIC (indictment confirmed, 4 November 1994; warrant of arrest to Bosnian Serb authorities on 7 November 1994; international arrest warrant, 20 October 1995).

Last known place of residence: Vlasenica in the territory of the Republika Srpska.

Action by the Republika Srpska: none.

IT-94-3-I Goran BOROVNICA (indictment confirmed, 13 February 1995; warrant of arrest to the Republika Srpska, 13 February 1995; advertisement of indictment in accordance with Rule 60 served to the Republika Srpska on 22 January 1997).

Last known place of residence: Kozarac in Prijedor Opstina.

Action by the Republika Srpska: none.

IT-95-4-I MEAKIC and seven others (also referred to as Omarska Camp case) (indictment confirmed, 13 February 1995; warrants of arrest to Bosnian Serb authorities on 13 February 1996; advertisement of indictment in accordance with Rule 60 served to the Republika Srpska on 22 January 1997).

Last known places of residence: Zeljko Meakic - Omarska (Republika Srpska), where he is the Deputy Commander of Omarska police station.

Action by the Republika Srpska: cooperation in the transfer of Zoran Zigic from Banja Luka prison to The Hague on 16 April 1998.

Miroslav Kvocka and Mladen Radic were arrested by SFOR on 8 April 1998 and Milojica Kos was similarly arrested on 28 May 1998.

On 5 May and 8 May 1998 the Tribunal granted the leave requested by the Office of the Prosecutor to withdraw the charges against Zdravko Govedarica, Gruban, Predrag Kostic, Nedeljko Paspalj, Milan Pavlic, Milutin Popovic, Drazenko Predojevic, Zeljko Savic, Mirko Babic, Nikica Janjic and Dragomir Saponja.

IT-95-8-I SIKIRICA and seven others (also referred to as Keraterm Camp case) (indictment confirmed 21 July 1995; warrant of arrest to Bosnian Serb authorities on 24 July 1995; advertisement of indictment in accordance with Rule 60 served to Bosnian Serb authorities, 23 January 1996).

Last known places of residence: Dusko Sikirica (the Coalition of International Justice reported that Sikirica attempted to run for municipal elections but was screened by OSCE; OSCE should therefore have his address); Nenad Banovic - Prijedor (Republika Srpska), where he frequents the Express Restaurant; Predrag Banovic - Prijedor (Republika Srpska), where he frequents the Express Restaurant.

Action by the Republika Srpska: cooperation in the transfer of Zoran Zigic from Banja Luka prison to The Hague on 16 April 1998.

On 5 May and 8 May 1998 the Tribunal granted the leave requested by the Office of the Prosecutor to withdraw the charges against Nikica Janjic, Goran Lajic, Dragan Kondic, Dragomir Saponja and Nedjeljko Timarac.

IT-95-9-I MILJKOVIC and five others (also referred to as Bosanski Samac case) (indictment confirmed, 21 July 1995; warrants of arrest to Bosnian Serb authorities, 24 July 1995; advertisement of indictment in accordance with Rule 60 served to Bosnian Serb authorities, 23 January 1996).

Last known places of residence: Slobodan Miljkovic - Kragujevac in Serbia, 60 miles south-east of Belgrade; Blagoje Simic - said by CIJ to be the highest-ranking public official in Bosanski Samac, with an office in the two hall; Stevan Todorovic - according to CIJ, he is Deputy of the local office of Republika Srpska state security in Bosanski Samac, works the night shift (7 p.m. - 7 a.m.) and lives in the village of Donja Slatina, "a 3-minute, 30-second drive from American-staffed NATO base of Camp Colt, with 1,000 soldiers. His commuter route is routinely travelled by NATO patrols".

Action by the Republika Srpska: none.

Milan Simic and Miroslav Tadic surrendered to the jurisdiction of the Tribunal on 14 February 1998, Simo Zaric surrendered on 24 February 1998.

IT-95-10-I JELISIC and CESIC (also referred to as Brčko case) (indictment confirmed, 21 July 1995; warrants of arrest to Bosnian Serb authorities, 21 July 1995; advertisement of indictment in accordance with Rule 60 served to Bosnian Serb authorities, 23 January 1996).

Action by the Republika Srpska: none.

Goran Jelisic was arrested by SFOR on 22 January 1998 in Bijeljina.

IT-95-5-R61
IT-95-18-R61

Radovan KARADZIC and Ratko MLADIC (first indictment confirmed, 25 July 1995; warrants of arrest to Bosnian Serb authorities on 26 July 1995. Request for assistance by the Trial Chamber to all States issued, 2 August 1995. Second, Srebrenica indictment confirmed on 16 November 1995; warrants of arrest to Bosnian Serb authorities on 21 November 1995). The Rule 61 hearing was held in July 1996 with regard to these two indictees. On 11 July 1996, Trial Chamber I certified the failure of the Republika Srpska and the Federal Republic of Yugoslavia to cooperate with the Tribunal. On the same day, it issued international arrest warrants against the two accused. The President of the Tribunal informed the Security Council of the failure of the Republika Srpska and the Federal Republic of Yugoslavia to cooperate the same day.

Last known place of residence: Karadzic - Pale (Republika Srpska). It is reported that Karadzic maintains a large house on a mountainside, well known to visitors.

Action by the Republika Srpska: none.

IT-96-23-I

Dragan GAGOVIC and seven others (indictment confirmed, 26 June 1996; warrants of arrest to the Republika Srpska, 27 June 1996; advertisement of indictment in accordance with Rule 60 served to Republika Srpska on 10 December 1996).

Last known places of residence: Dragan Gagovic - Chief of Police in Foca (Republika Srpska); Gojko Jankovic - Foca (Republika Srpska), where he was seen by a journalist in a cafe frequented by French IFOR soldiers (Sunday Times, 28 July 1996); Radomir Kovac - Foca, reportedly working for the local police; Dragan Zelenovic - Foca, reportedly working for the local police; Radovan Stankovic - Foca, reportedly working for the local police. In August 1996, Stankovic was nearly arrested by local police, but he escaped. He later filed a complaint with the IPTF alleging harassment by those police forces. The IPTF recorded the complaint, and made no attempt to arrest Stankovic.

Action by the Republika Srpska: cooperation in the surrender of Dragoljub Kunarac into the custody of the Tribunal.

Republic of Croatia

IT-95-11-R61

Milan MARTIC (indictment confirmed 25 July 1995; warrant of arrest served to Republic of Croatia on 26 July 1995; advertisement of indictment in accordance with Rule 60 served to Republic of Croatia, 23 January 1996; international arrest warrant, 8 March 1996).

Last known place of residence: Banja Luka in the territory of the Republika Srpska.

Action by Republic of Croatia: none.

IT-95-12-R61 Ivica RAJIC, a.k.a. "Viktor ANDRIC" (also known as the Stupni Do case) (indictment confirmed, 29 August 1995; warrant of arrest to Republic of Croatia, 8 December 1995; advertisement of indictment in accordance with Rule 60 served to Republic of Croatia, 23 January 1996; international arrest warrants, 13 September 1996).

Last known place of residence: reported as having been living in a Government-owned hotel in Split, Croatia, but to have since left.

Action by Republic of Croatia: none.

IT-95-14-I KORDIC and five others,[7] including Tihofil BLASKIC (also known as Lasva River Valley case) (indictment confirmed on 10 November 1995; warrants of arrest to Republic of Croatia on 14 November 1995).

Action by Republic of Croatia: Zlatko Aleksovski has been arrested in Split, on 8 June 1996, and was transferred to The Hague earlier this year. Mention should also be made of the voluntary surrender of Mr. Blaskic on 1 April 1996. According to the Prosecutor, the arrival of Mr. Blaskic in The Hague was the result of a number of discussions with the Croatian Government which has been cooperative in reaching a compromise regarding the voluntary surrender of the accused.

Dario Kordic, Mario Cerkez, Ivan Santic and Pero Skopljak were transferred to The Hague after their surrender to the jurisdiction of the Tribunal on 6 October 1997. Ivan Santic and Pero Skopljak were subsequently released following the withdrawal of the indictments against them by the Office of the Prosecutor.

IT-95-15-I Zoran MARINIC (indictment confirmed on 10 November 1995; advertisement of indictment in accordance with Rule 60 served 13 December 1996).

Action by Republic of Croatia: none.

IT-95-16-I Zoran KUPRESKIC and seven others (advertisement of indictment in accordance with Rule 60 served to Republic of Croatia, 13 December 1996).

Last known places of residence: Vladimir Santic - Vitez.

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[7] Dario Kordic, Tihofil Blaskic, Mario Cerkez, Ivan Santic, Pero Skopljak and Zlatko Aleksovski.

Vlatko Kupreskic was arrested by SFOR on 18 December 1997 in Konjic. Mirjan Kupreskic, Vladimir Santic, Drago Josipovic, Dragan Papic and Marinko Katava surrendered to the Tribunal on 6 October 1997. Marinko Katava was subsequently released following the withdrawal of the indictment against him by the Office of the Prosecutor.

The purported death of Stipo Alilovic on 25 October 1996 in Amsterdam was confirmed by documents received by the Tribunal from the Supreme Court of the Government of Bosnia and Herzegovina. The indictment against him was withdrawn following the request of the Office of the Prosecutor.

NATO/IFOR/SFOR

1. Action by SFOR:

Arrested: Anto Furundzija and Vlatko Kupreskic on 18 December 1997 in Konjic,

Goran Jelisic on 22 January 1998 in Bijeljina,

Miroslav Kvocka and Mladen Radic on 8 April 1998 in Prijedor,

Milojica Kos on 28 May 1998 in Banja Luka and

Milorad Krnojelac on 15 June 1998 in Foca.

Assisted in the surrenders of:

Dragoljub Kunarac on 4 March 1998 and

Zoran Zigic on 16 April 1998.

Attempted to arrest:

Nenad Banovic on 22 July 1998 in Prijedor

Predrag Banovic on 22 July 1998 in Prijedor.

2. International arrest warrants:

The following international arrest warrants have also been sent to IFOR/SFOR:

Martic: international arrest warrant issued to IFOR on 15 March 1996.

Sljivancanin: international arrest warrant issued to IFOR on 3 April 1996.

Radic: international arrest warrant issued to IFOR on 3 April 1996.

Mrksic: international arrest warrant issued to IFOR on 3 April 1996.

Karadzic: international arrest warrant issued to IFOR on 11 July 1996.

Mladic: international arrest warrant issued to IFOR on 11 July 1996.

Radic: international arrest warrant issued to IFOR on 13 September 1996.

United Nations Transitional Administration for Eastern Slavonia, Baranja and Western Sirmium

IT-95-13-I Arrest warrant for Slavko Dokmanovic sent to UNTAES on 3 April 1996.

Action taken: assisted in the arrest of Slavko Dokmanovic on 27 June 1997 and his transfer to The Hague.